Wednesday,
1st December, 1954

LOK SABHA DEBATES

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EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT
NEW DELHI

Dated... 02.12.2014

LOK SABHA

Wednesday, 1st December, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

COAL TAR PRODUCTS

*569. **Shri V. P. Nayar:** Will the Minister of Commerce and Industry be pleased to state:

(a) what is the estimated annual requirement of Coal Tar products for the manufacture of synthetic drugs in India;

(b) how much of this requirement has to be met from imports; and

(c) what are the main difficulties in making India self-sufficient in the requirement of Coal Tar products?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) If the bulk of the synthetic drugs required at the present level of demand is produced indigenously starting from coal tar products, the annual requirements of such products are estimated to be as follows:—

Benzene	...	1,31,83,600 lbs.
Toluene		13,61,500 lbs.
Pyridine	...	22,500 lbs.
Gamma picoline		2,300 lbs.

(b) The manufacture of only a few synthetic drugs based on Gamma picoline, pyridine and small quantities of benzene or toluene has been undertaken so far in the country from basic coal tar products. As gamma picoline and pyridine of the required purity are not available from indigenous sources, they are imported. The quantity of benzene required at present for the manufacture of synthetic drugs is small and is met from local sources.

(c) A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 22.]

Shri V. P. Nayar: Is it not a fact that the synthetic drug manufacturing industry in India has no incentive on account of the working of the patent laws under which most of the patents are held by foreigners who make it impossible for Indian manufacturers to turn over to the manufacture of synthetic drugs?

Shri Kanungo: That may be one of the reasons, but it is a vicious circle. Adequate supply of the intermediates are not available and the manufacturing incentive and organisation is not there.

Shri V. P. Nayar: Is it not a fact that there are obvious difficulties in distilleries and other manufacturing enterprises in having coal tar, as at present there is no arrangement in the Indian railways for wagons as such, for the transport of these and they have to transport them in drums?

Shri Kanungo: That is correct.

Shri V. P. Nayar: May I know whether it is a fact that in most of the coke oven plants in India that we have at present there is no arrangement for the recovery of benzol and that during the process of coaking coal at very high temperature what little benzol is produced is converted into naphta hydrochloride and such other articles, so that there is no possibility of recovering benzol?

Shri Kanungo: Those are facts which have been pointed out by the Drug Enquiry Committee and the reasons are not just one; they are various.

Shri V. P. Nayar: The hon. Deputy Minister said that it is a vicious circle. May I know whether, in view of the fact that the synthetic drug industry is of vital importance to the country, Government have any integrated plans in order that all these difficulties may be got over and India becomes self-sufficient in the matter of synthetic drug manufacture here?

Shri Kanungo: The Report of the Drugs Enquiry Committee which has suggested many practical ways is under the consideration of the various Ministries of Government and as a result of such consideration steps will be taken to reach that position.

The Minister of Production (Shri K. C. Reddy): In respect of the production of benzene in the coke oven plants, in the recently opened coke oven plant at Sindri arrangements have been made.

Shri Krishnacharya Joshi: May I suggest that question No. 621 may also be taken along with 570?

Mr. Speaker: Is it connected with this?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): There is some difference in the questions.

Mr. Speaker: Then Question No. 570 need only be taken.

REPATRIATION OF INDIANS

*570. **Shri Krishnacharya Joshi:** Will the Prime Minister be pleased to state:

(a) the number of Indians who have been repatriated to India during 1954; and

(b) the amount spent on their repatriation during the same period?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) 2,572.

(b) A direct expenditure of Rs. 18,341/10 was incurred on the repatriation of 223 Indians, out of which a sum of Rs. 1,107/4/- is expected to be recovered from the persons concerned.

Indirect expenditure was incurred by providing free passage from Indian border to home towns in U.P., to 1,100 Indian Muslims who had earlier migrated to West Pakistan and came back to India, in accordance with the Prime Ministers' Agreement of 1950.

1,249 Indian labourers unfit for work due to old age or infirmity were repatriated to India by foreign Governments at their cost and the expenditure on that account is not known.

Shri Krishnacharya Joshi: May I know, Sir, what are the facilities given by foreign countries for repatriating Indians?

Shri Anil K. Chanda: When they repatriate those who are not wanted over there they bear the cost of the transportation.

Shri Krishnacharya Joshi: May I know what are the main reasons for repatriation?

Shri Anil K. Chanda: While the Indian labourers are incapable of further work due to old age, infirmity, etc., they are generally repatriated.

Shri Veeraswamy: May I know whether it is a fact that a number of

Indians in Ceylon Government's service have been served with notice of discharge from service and the Indian High Commissioner in Ceylon has registered a protest against that action which is a violation of the agreement of the Prime Ministers of the two countries?

Shri Anil K. Chanda: It is quite a different matter. If the hon. Member is interested, he may table a separate question.

Dr. Suresh Chandra: May I know whether it is the policy of Government to bring repatriated Indian nationals at Government cost? If so, may I know why the cost of passage of the Indian nationals who were interned in Germany and who were repatriated from there is being recovered from them?

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): First of all we noticed that a relatively small sum of money has been spent on this repatriation. There is no question of policy. It is only in special cases that arise that we get them back. It is the foreign Government that usually pays. In regard to repatrees from Germany, to whom the hon. Member referred, there is no question of policy; they are special cases. We did pay for their repatriation. Some of them said they would pay for it and we took it. Some did not pay and we wrote it off.

Shri T. S. A. Chettiar: May I know whether any amount has been spent for rehabilitating these people who have been repatriated to India?

Shri Anil K. Chanda: I have no information with regard to this.

IMPORTS FROM U.S.S.R.

***571. Shri D. C. Sharma:** Will the Minister of Commerce and Industry be pleased to state what is the total value of imports from U.S.S.R. to India from the date of signing of the Indo-Soviet Trade Agreement to the end of October, 1954?

The Minister of Commerce (Shri Karmarkar): Statistics of India's foreign trade for the month of October, 1954 are not yet available. Imports into India from the U.S.S.R. during the period December, 1953 to September, 1954 amounted to about Rs. 70 lakhs.

Shri D. C. Sharma: May I know what were the articles that were imported from the U.S.S.R. to India?

Shri Karmarkar: Principally instruments, coal tar dyes, newsprint, manufactures of wood, tea-chests of wood and motor cars.

Shri D. C. Sharma: May I know what type of motor cars have been imported, how many of them have been imported and how they have been functioning in India?

Shri Karmarkar: I should like to have notice of that question.

Shri V. P. Nayar: May I know, Sir, what the total figure of imports of these would represent in percentage out of the total imports of India for the same period?

Shri Karmarkar: My hon. friend will doubtless find those figures in the Library.

Shri G. P. Sinha: Is there any proposal to increase the import of motor cars and other capital goods from Russia?

Shri Karmarkar: About capital goods, yes; about motor cars, no.

Shri D. C. Sharma: May I know if the whole thing is being done on a barter basis or in terms of Russian currency and Indian currency?

Shri Karmarkar: Not on barter basis.

STEEL PLANTS

***572. Shri G. P. Sinha:** Will the Minister of Production be pleased to state:

(a) the number of applications which the Government of India have received from foreign countries to undertake the erection of Iron and Steel Plants in India; and

(b) what are their terms?

The Minister of Production (Shri K. C. Reddy): (a) and (b). No formal applications for the erection of an Iron and Steel Plant have been received from any foreign country. But, discussions have taken place on some occasions with representatives from foreign countries. There were discussions with Japanese businessmen in 1952 in regard to a proposal to set up an Iron and Steel Plant in India as a joint Indo-Japanese venture. These dicussions did not ultimately bear fruit.

Then there were discussions with some German firms which resulted ultimately in an agreement according to which they are setting up a Government-owned steel plant in India about which information has already been given to the Lok Sabha.

There were also some proposals for Russian experts to set up an Iron and Steel Plant in India. A team of such experts has been invited to India and is at present here. After they have inspected various sites, further discussions will take place with them. Information about this has also been given to the Lok Sabha.

Certain general proposals have also been recently made for foreign assistance chiefly from the United Kingdom, for setting up an Iron and Steel Plant in India. These proposals are in a very preliminary stage at present.

Shri G. P. Sinha: Was there any proposal from Britain which was negotiated by Birlas and which was not accepted by the State?

Shri K. C. Reddy: That is the thing referred to in the last part of my answer. As regards its acceptance or otherwise, the question does not arise now because the whole matter is now under consideration in the context of the industrial policy of the Government of India.

Shri G. P. Sinha: May I know whether the future plants will be a State enterprise or will be a matter for the private sector?

Shri K. C. Reddy: We cannot say as to what exactly the position will be. We have to take a decision in the context of the industrial policy of India generally.

Shri G. P. Sinha: In view of the fact that Russian technicians have already arrived, may I know whether the new plant to be put up with the help of the Russian technicians will be a State enterprise or will be a private sector enterprise?

Shri K. C. Reddy: It is conceived to be a State enterprise.

Shrimati Tarkeshwari Sinha: Could the Government give us an idea of the private capital that is going to come from foreign countries for the manufacture of steel in India?

Shri K. C. Reddy: As regards the Rourkela steel plant which is being put up, the Germans will contribute up to a certain limit in accordance with the terms of the agreement that we have entered into with them. So far as the steel plant which is to be set up by Russian experts is concerned, there is no intention now of inviting any private capital at all. As regards the other proposal, I have said the whole thing is in a very preliminary stage.

NEIVELI LIGNITE MINES

*573. **Dr. Ram Subhag Singh:** Will the Minister of Production be pleased to refer to the reply to starred question No. 655 asked on the 8th September, 1954 and state:

(a) the progress made so far in the pilot project undertaken with regard to exploitation of the lignite resources at Neiveli; and

(b) whether that pilot project is receiving any assistance under the Colombo Plan?

The Minister of Production (Shri K. C. Reddy): (a) According to the information received from the Madras Government nearly 85 per cent. of the work connected with the pilot project has been completed upto the end of October, 1954.

(b) No, but assistance under the Colombo Plan has been obtained in connection with the preparation of a Project Report for the Mining and Utilisation of the Lignite Deposits.

Dr. Ram Subhag Singh: May I know whether any Indian capital has been invested in this enterprise?.

Shri K. C. Reddy: The pilot project is being undertaken by the Madras Government as a governmental scheme. With regard to the bigger project, we have just received the report and that report is under examination by the Government of India.

Shri S. V. Ramaswamy: Has a firm of British experts been sent to this place to investigate the pilot project and report upon it and has the report been received, and if so, will it be placed on the Table of the House?

Shri K. C. Reddy: The report has just been received and the Government are considering it. The question of placing it on the Table of the House will have to be considered later.

Shri Meghnad Saha: What is the amount of water in the lignite?

Shri K. C. Reddy: I am sorry I cannot answer this question.

Shri Meghnad Saha: May I put another question? Does not the hon. Minister think that the economic working of the project will depend upon the water in the lignite? According to my information, it is very large.

Shri K. C. Reddy: I would require notice to answer this question.

Shri S. V. Ramaswamy: What further time will be taken to reach the actual lignite deposits?

Shri K. C. Reddy: The pilot project is expected to be completed by about February 1955.

DELEGATIONS SENT ABROAD

*574. **Th. Lakshman Singh Charak:** Will the **Prime Minister** be pleased to state:

(a) how many delegations—Official, Non-Official and Semi Official were sent abroad from January 1953 to October, 1954; and

(b) the amount spent by the Centre on these delegations?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) and (b). Necessary information is being collected and will be placed on the Table of the House in due course.

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): May I say one word, Sir? We have, I believe, on two or three or perhaps four occasions given very full details. The same question with a slight variation comes on—may be a slight difference by a month or two in the date. I am perfectly willing to give all the information but 95 per cent of it is the same question; we have to gather the same material and place it before the House. I would submit that this perhaps involves unnecessary labour.

Mr. Speaker: I might clarify the position. The Lok Sabha Secretariat has addressed all Ministries that whenever there is any repetition of a question and the information has already been supplied, they should invite the attention of the Lok Sabha Secretariat to that fact. It is obviously impossible for the Lok Sabha Secretariat to search all the questions previously tabled and rule them out. That is why this instruction was issued and if this is observed by the Ministries there may not be this difficulty.

Shri Jawaharlal Nehru: Where it is 95 per cent. repetition and five per cent. not......

Mr. Speaker: Attention should be invited that this has been answered it may be 90 per cent. or even 80 per cent., that does not matter. It is not possible for the Lok Sabha Secretariat to search all questions from all the Ministries.

KHADI

***576. Shri Bibhuti Mishra:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that Charkha Sangh has raised its establishment expenses after the grant of rebate of annas three per rupee on the sale of khadi; and

(b) if so, the percentage of increased establishment expenses and their repercussions on the sale of khadi?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) No, Sir.

(b) Does not arise.

श्री बिभूति मिश्र : क्या यह सही नहीं हैं कि जब सरकार ने खद्दर में तीन आना रुपया रिबेट दिया तो चरखा संघ वालों ने अपने एस्टैबलिशमेंट का खर्चा बढ़ा दिया और इस तरह से खद्दर सस्ता नहीं हो सका ?

श्री कानूनगो : इसके बारे में मैं ने कहा कि यह चीज नहीं हुई हैं ।

श्री बिभूति मिश्र : क्या सरकार इसकी तरफ ध्यान देकर जांच पड़ताल करेगी ?

श्री कानूनगो : पड़ताल करके ही यह कहा गया हैं ।

PEOPLE'S REPUBLIC OF CHINA

***577. Shri H. N. Mukerjee:** Will the **Prime Minister** be pleased to state:

(a) whether the attention of Government has been drawn to reports that on the 10th October, 1954, a section of Chinese residents in Calcutta put up posters attacking the People's Republic of China;

(b) whether Government are aware that on a certain school building in Calcutta, the Indian National Flag and the Chiang Kai Sheik Flag flew together on that day; and

(c) whether Government propose to take any steps in the matter?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Yes, some of the posters were objectionable and advocated violence.

(b) Yes.

(c) Action has been taken against certain individuals in connection with these celebrations and others have been warned.

Shri H. N. Mukerjee: May I know if it has come to the attention of the Government that the police in West Bengal generally show an attitude of partiality towards the supporters of the Chiang Kai Sheik regime, in Calcutta?

Shri Anil K. Chanda: We do not accept this contention.

DOCUMENTARIES AND NEWSREELS

***579. Shri Bhagwat Jha Azad:** Will the Minister of **Information and Broadcasting** be pleased to state whether Government have any proposal for producing documentary films and newsreels in regional languages?

The Minister of Information and Broadcasting (Dr. Keskar): Documentary films and newsreels are already being produced by the Films Division in regional languages. Films are released to cinemas in Hindi, Bengali, Tamil and Telugu, besides English. For the Integrated Publicity Programme for the Five Year Plan language versions are also prepared in Gujerati, Marathi, Malayalam, Kannada, Punjabi, Oriya, Assamese and Kashmiri.

Shri Bhagwat Jha Azad: In view of the fact that a large number of

English documentaries and newsreels are being forced down our throat, may I know what is the percentage of such films which have been produced in regional languages till now.

Dr. Keskar: I would require notice to find out exactly the percentage languagewise.

श्री भक्त दर्शन : क्या मंत्री महोदय ने इस सुझाव पर भी विचार किया हैं कि इन वृत्त चित्रों को ग्रामों तक पहुंचाने के लिए पंचायतों तथा वहां के स्कूलों की अधिक से अधिक सहायता ली जाय ?

डा० केसकर : देहातों में पहुंचाने के लिए ही क्षेत्रीय भाषाओं में चित्र बनाये जा रहे हैं । इसके अतिरिक्त अगर कोई आर्थिक सहायता की आवश्यकता हैं तो यह काम केन्द्रीय सरकार के लिए बहुत कठिन हैं ।

Shri Achuthan: When can we expect the completion of the scheme to produce documentaries and newsreels in all the regional languages, especially South Indian languages—Malayalam, Telugu, Tamil, etc?

Dr. Keskar: This is all a question of money. If we have to produce all documentaries in all the regional languages, it will entail very heavy expenditure and I would like to draw the attention of the House that the Estimates Committee and the Public Accounts Committee are very severe on the Films Division and have stated that they should spend less and less.

JONK DAM PROJECT

***580. Shri B. N. Misra**: Will the Minister of **Irrigation and Power** be pleased to refer to the answer given on the unstarred question No. 870 on the 29th September, 1954 and state:

(a) when and by whom the investigations on the site upstream of the original site of the Jonk Dam Project was made; and

(b) the nature of the report of the persons who made the investigations?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) Investigations on the site upstream of the original site for Jonk river Project Dam were made in April, 1953, by the Central Water and Power Commission.

(b) The Central Water and Power Commission as well as the Geologist of the survey of India reported that in the strata of the central portion there was considerable amount of crushed zone and that as such, the site was not considered suitable for the construction of a Dam.

Shri B. N. Misra: Regarding the conclusion as to the existence of crushed zones, may I know the data in regard to the other projects and whether these kinds of zones were found in the case of the Damodar Valley and other projects or not?

Shri Hathi: They were not found in other projects to the same extent as they were found in this site.

Shri B. N. Misra: What is the difference between the extent? What is the percentage? Can the Ministry say about it?

Shri Hathi: It is the treatment cost that has to be taken into consideration. If there is more crushed zone, the treatment requires more money and naturally the project does not become economical.

Shri B. N. Misra: May I know whether it has been decided that that would be a suitable site for construction in the future?

Shri Hathi: That could not be a suitable site.

Shri Jangde: May I know whether the Madhya Pradesh Government has approached the Central Government to take up the Jonk river project in the Second Five Year Plan?

Shri Hathi: No.

SALT

*583. **Ch. Raghubir Singh:** Will the Minister of **Production** be pleased to state:

(a) whether it is a fact that a Departmental Committee on Salt was constituted by Government in 1951;

(b) if so, who were the Members of the Committee;

(c) what were their recommendations; and

(d) how far they have been implemented?

The Parliamentary Secretary to the Minister of Production (Shri R. G. Dubey): (a) Yes, in July 1951.

(b) The composition of the Committee was as follows:—

1. Shri B. B. Paymaster, I.C.S., then Deputy Secretary in the Ministry of Works, Production and Supply—*Chairman.*
2. Shri A. Baksi, Deputy Secretary, Ministry of Finance, subsequently substituted by Shri B. S. Bhatnagar from 12-1-53 —*Member.*
3. Shri S. C. Aggarwal, Salt Commissioner—*Member Secretary.*

(c) and (d). A statement showing the recommendation of the Committee and the action taken thereon is laid on the Table of the House. [*See* Appendix III, annexure 23.]

Ch. Raghubir Singh: May I know the reasons why the Committee did not think of going ahead with the washery plant?

Shri R. G. Dubey: Because it would not be economic.

Shri A. M. Thomas: May I know why the recommendation of the Committee with regard to the setting up of a research laboratory has been dropped?

May I also enquire as to what happened to the proposal of the Government to set up certain experimental farms, three or four, in various parts of the country?

Shri R. G. Dubey: As regards the first part of the question, I think we have one laboratory already at Sambar. It wil serve the purpose and it was not considered desirable to have another. As regards the other question, this matter is also under the consideration of the Government.

COTTAGE INDUSTRY PRODUCTS

*584. **Shri Jhulan Sinha:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether any study has so far been made of the possibility of replacing the Cottage and Small-scale products which are imported now; and

(b) if so, the extent of such possibility in respect of articles of necessity and of luxury goods?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) and (b). The possibility of manufacturing such articles in India, whether on a large scale or small scale, is a matter of continuous study.

Shri Jhulan Sinha: May I know if any estimate has been made of the articles imported from abroad which could be manufactured here and thereby imports replaced?

Shri Kanungo: It is always being done.

Shri Jhulan Sinha: May I have an idea of the imports, both in value and quantity?

Shri Kanungo: Yes. It will require notice and collection of materials. It runs into a large number of items.

COTTON TEXTILES FUND ORDINANCE, 1944

*585. **Shri K. C. Sodhia:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Cotton Textiles Fund Ordinance, 1944, is still in force;

(b) if so, whether Government propose to replace it by an Act of Parliament;

(c) the total income accrued to the Fund during 1953-54 and the expenditure incurred on (i) supervision and (ii) Technical education; and

(d) the total amount at the credit of the Fund as on the 31st March, 1954 and what is the agency to administer it?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) and (b). The Ordinance in question is one of the Union measures passed during the war period which is permanent. The question of replacing the Ordinance by an Act does not, therefore, arise, except perhaps to the extent to which it may be necessary to replace the word "Ordinance" by the word "Act".

(c) No income accrued to the Fund during 1953-54. No expenditure was incurred during this period from the Fund on supervision of cloth manufactured for export or on research.

(d) The balance in the Fund as on 31st March 1954 was Rs. 2,32,99,507-11-8. The Fund is administered by the Cotton Textile Fund Committee in accordance with the provision of the Cotton Textile Fund Ordinance, 1944.

Shri K. C. Sodhia: The hon. Minister has stated that no expenditure was incurred and no income was received. Was the Ordinance defunct in 1954?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I would like to make a minor correction. The answer to part (c) is:

> "No expenditure was incurred during this period from the Fund on supervision of cloth manufactured for export......"

We have incurred expenditure on research. This is a Fund which does not grow. But, money is expended on research from out of this Fund. It is proposed during the current year to expend some money even in regard to inspection of goods that are exported. We are also going to spend a lot of money on other research institutions for the purpose of cotton textile research.

Shri K. C. Sodhia: Do not the Government consider the desirability of retention of Ordinances in view of the clear provisions of our Constitution?

Mr. Speaker: Order, order. The hon. Minister has already replied that an Ordinance practically meant an Act.

HINDUSTAN MOTORS LIMITED

***587. Shrimati Tarkeshwari Sinha**: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether an agreement between the Hindustan Motors Limited and the General Motors Corporation of U.S.A. for the manufacture of *Chevrolet* cars in India, has been concluded recently;

(b) if so, the estimated cost of construction of the plant for the manufacture of the *Chevrolet* cars in India; and

(c) the percentage of American capital that will be invested in it?

The Minister of Commerce (Shri Karmarkar): (a) No, Sir. Not that Government is aware of.

(b) and (c). Do not arise.

Shrimati Tarkeshwari Sinha: May I know whether the Government, in order to encourage demand for cars in the country, propose to establish, or encourage the formation of, an automobile corporation in the country, in the near future?

Shri Karmarkar: That is not our idea.

Shrimati Tarkeshwari Sinha: How do the Government propose to increase the demand for cars because the demand is not reaching to the level of the supply of cars in the country?

Shri Karmarkar: I would like to refer my hon. friend to the debate that took place in the last session on this topic.

NATIONAL INDUSTRIAL DEVELOPMENT CORPORATION LTD.

*588. **Shri T. K. Chaudhuri:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the "National Industrial Development Corporation Ltd." has been formed and registered as a body-corporate under the Companies Act;

(b) whether Government will lay on the Table of the House a copy of the Memoranda and Articles of Association of the Corporation; and

(c) how many meetings of the Board of Directors have been held so far and what are the activities that have been embarked upon by the Corporation uptil now?

The Minister of Commerce (Shri Karmarkar): (a) Yes, Sir.

(b) A copy each of the Memorandum and Articles of Association of the Corporation is placed on the Table of the House. [*Placed in the Library. See* No. S-455/54.]

(c) Only one meeting of the Board of Directors of the Corporation has been held. At this meeting the Corporation drew up a list of industries for study and investigation and considered the arrangements to be made for obtaining technical advice.

Shri T. K. Chaudhuri: May I know who were the Members of the Board of Directors and on what criteria they were appointed? I am asking this question because all the Directors are nominated by the President and I understand that there are a number of Directors. I want to know how they were selected.

Shri Karmarkar: The Chairman is the Minister of Commerce and Industry. The Directors are both official and non-official and are selected on the ground of suitability.

Shri T. K. Chaudhuri: I want to know the names of the Directors, particularly those of the non-officials.

Shri Karmarkar: I should like to have notice. In any case, I shall send a list to the hon. Member.

Shri T. K. Chaudhuri: In view of the fact that the entire share capital of this Corporation has been subscribed by Government up to the present, and for this purpose, a supplementary budget grant has also been obtained this year, may I know what is the type of specific organisation which is to exercise control and supervision over the Corporation on behalf of Government and this Parliament?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): The usual organisation that exists for purposes of scrutinising all expenditure of Government moneys.

Shri T. K. Chaudhuri: Will it be regarded as an autonomous Corporation like other Government-owned Corporations?

Shri T. T. Krishnamachari: As a matter of fact, the fact that the Minister of Commerce and Industry is its Chairman deprives it of all characteristics that go with the connotation of the word 'autonomy'.

Pandit Munishwar Datt Upadhyay: What are the industries regarding which an order of investigation has been issued?

Shri T. T. Krishnamachari: I do not carry them in my memory. It is a fairly long list, and if the hon. Member wants, I can let him have the information.

Pandit Munishwar Datt Upadhyay: In para 7 of the articles of association, we find:

> "Subject to the directions of the President in that behalf, and subject to the provisions hereinafter contained, the shares shall be under the control of the directors......"

May I know in what capacity the President will issue directions in respect of the control of the shares of this company?

Shri T. T. Krishnamachari: 'The President' is a term which is used for indicating the Government of India.

Shri Meghnad Saha: What is meant by the usual type of organisation, which the hon. Minister mentioned a little while ago. Will it be all the capitalists of the country put together, with no people's representatives?

Shri T. T. Krishnamachari: If the hon. Member's understanding of 'usual type' is what he says it to be, I cannot enlighten him further.

WORLD REFUGEE PROBLEM

***589. Shri Jethalal Joshi:** Will the **Prime Minister** be pleased to state:

(a) whether Government are aware that the United Nations Social Cultural and Humanitarian Committee has adopted a resolution authorising a programme to seek permanent solution of the world refugee problem;

(b) whether it is a fact that the resolution puts ultimate responsibility for refugees on the countries of residence; and

(c) if so, the action Government propose to take in the matter?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Yes; but the resolution referred to relates not to the world refugee problem but to the refugees within the mandate of the United Nations High Commissioner for Refugees.

(b) Yes; but only with respect to the refugees falling within the mandate of the United Nations High Commissioner.

(c) The resolution in question does not concern the refugee problem in India.

Shri Jethalal Joshi: May I know the number of refugees, nation-wise and country-wise, uprooted on account of wars or transfer of political power?

Shri Anil K. Chanda: I think it will be impossible to collect this information, for the hon. Member wants the number of refugees all over the world, due to political disturbances, etc.

Shri Jethalal Joshi: I want to know the number according to the definition that has been given by the hon. Minister.

Shri Anil K. Chanda: A separate question might be tabled. We will try to get this information.

Shri Meghnad Saha: May I know whether the Government of India have studied the refugee rehabilitation in Western Germany, where one man in three is a refugee, and where they claim to have solved the problem completely?

Shri Anil K. Chanda: This question might be addressed to the hon. Minister of Rehabilitation.

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): There are many other problems to deal with. We cannot deal with this question by itself.

Mr. Speaker: Question No. 595. Shri Hem Raj.

Shri Bhakt Darshan: I have got authority.

Mr. Speaker: Then it will come at the end.

REBATE ON WOOLLEN FABRICS

***596. Shrimati Jayashri:** Will the Minister of **Commerce and Industry** be pleased to state whether it is a fact that the All-India Handloom Board has recommended to the Government of India that a rebate of 1½ annas in the rupee may be allowed on the sales of woollen fabrics manufactured on handlooms?

The Deputy Minister of Commerce and Industry (Shri Kanungo): Yes, Sir.

Shrimati Jayashri: May I know the total sales of woollen handloom fabrics, and the amount required for giving rebate on the same?

Shri Kanungo: The decision to give rebate was taken only recently, and therefore, these figures cannot be available. It was taken only last month.

CORRUGATED IRON SHEETS

*597. **Shri L. Jogeswar Singh:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the procuring and selling prices per bundle of the corrugated iron sheets for Manipur State;

(b) whether it is a fact that the difference between the procuring and selling prices is abnormal;

(c) if so, the reasons therefor; and

(d) the steps that Government propose to take to reduce the prices?

The Minister of Commerce (Shri Karmarkar): (a) Procuring price is Rs. 71-8-0 at Calcutta and selling price at Manipur is Rs. 92-15-1 per bundle, exclusive of sales tax.

(b) No, Sir.

(c) Does not arise.

(d) This, I understand, is being examined by the State Government.

Shri L. Jogeswar Singh: May I know whether, in view of the large bottlenecks on the Assam link, and also the long distance to be covered by motor, Government have considered the desirability of reducing the freight charge over this commodity?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari) So far as the question of reduction of the freight charge is concerned it is not in the hands of the Commerce and Industry Ministry. There are a number of other factors involved in it, and I think this is one of the subjects which is engaging the attention of the State Government.

Shri L. Jogeswar Singh: In view of the fact that people are experiencing a lot of difficulty in the purchase of these iron sheets in Manipur, may I know whether Government will consider the question of coming to an early decision regarding this matter?

Shri T. T. Krishnamachari: So far as I am concerned, the decision is entirely to be taken by the State Government. If any proposals come from the State Government, the Central Government will certainly cooperate in implementing those proposals.

HIRAKUD WORKSHOP

*599. **Shri Lokenath Mishra:** Will the Minister of **Irrigation and Power** be pleased to state:

(a) what will happen to the workshop in Hirakud after the completion of the Project; and

(b) whether Government have examined the advisability of establishing an Engineering College at Hirakud to take advantage of the workshop and other buildings after the construction of the Dam is over?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) After the completion of the Project, the workshop at Hirakud will be required, for about two years, to recondition the machinery now being used on the Project for resale or transfer to other Projects. Thereafter a portion of the workshop will be utilised for the maintenance of mechanical equipment in the Project.

(b) No, Sir. This is a matter which concerns the Government of Orissa and the State Government have been asked to intimate the position.

Shri Lokenath Mishra: May I know whether the workshop is managed there at the cost of the Orissa Government,—I mean out of the funds of the Hirakud Project? It was stated in the answer that the material will be transferred to some other project. My question is whether the expenditure on this workshop is borne by the Hirakud Project, which belongs to Orissa.

Shri Hathi: The expenses are borne by the Hirakud Project. The amount is paid by the Central Government as a loan to the Orissa Government.

Shri Lokenath Mishra: Have Government examined the advisability of having some engineering college there, in order to make the best use of it?

Shri Hathi: The Government of Orissa are considering that question, but it is not yet finalised.

RURAL ELECTRIFICATION

***600. Shri S. C. Samanta:** Will the Minister of **Planning** be pleased to refer to the answer to starred question No. 26 asked on the 15th November, 1954 and state:

(a) whether any rural electrification scheme has been received from the Government of West Bengal for 1954-55 and 1955-56; and

(b) if so, the amount of loan that has been sanctioned for this purpose?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) Yes, Sir.

(b) Rs. 163,38 lakhs.

Shri S. C. Samanta: Last time, no ceiling was given to us in respect of Madras and Bengal. May I know whether in the case of Madras a ceiling has been fixed?

Shri Hathi: It is not actually a question of fixing the ceilings. But Madras has been allotted Rs. 397 lakhs.

Shri S. C. Samanta: Is it a fact, that, for approved schemes only, grants are given? Are Government aware that in rural areas, due to want of funds, the schemes are not carrying on well? In view of the act that in such cases, the State Government will not take the matter into high consideration, may I know whether the Central Government will call for the records in those cases?

Shri Hathi: The Central Government would not call for the records from each State. At the most, the Planning Commission apprises the States and invites schemes for rural electrification.

Shrimati Renu Chakravartty: May I know whether under this scheme before granting this loan, the Central Government have made, quite sure that the power will be supplied on a no-profit-no-loss basis?

Shri Hathi: That is for the State Government to see. But generally, it is the concern of the Planning Commission to see that rural electrification is cheap.

Pandit Munishwar Datt Upadhyay: What is the amount advanced to the U.P. Government for a similar purpose? Is that all the amount to be given, or will anything more be given?

Shri Hathi: Rs. 235 lakhs is the amount given.

Shri S. C. Samanta: How many schemes have as yet been received from West Bengal?

Shri Hathi: I think 37 schemes from West Bengal, but I shall check up the figure?

GLASS INDUSTRY

***602. Shri V. P. Nayar:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether Government are aware that Indian consumers of Indian made glass products have a general complaint that these products deteriorate due to the poor quality of glass containers being not of the minimum standard; and

(b) what steps if any Government have taken to make Indian made glass products suitable for manufacturers who use them?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) Government have received no such reports.

(b) Does not arise.

Shri V. P. Nayar: May I know whether at present the Indian glass manufacturing industry uses almost the same type of raw materials and the same processes for the manufacture of all sorts of articles of glass like ampoules, tumblers and even chimneys with the result that the pharmaceutical industry has complained that its products get deteriorated when they are packed in Indian containers?

Shri Kanungo: The reply to the last part is that Government have received no such complaint. As for the other point which he has mentioned, some manufacturers use the same materials; some do not.

Shri V. P. Nayar: May I know whether the hon. Minister has gone through the report of the Pharmaceutical Inquiry Committee which definitely states that there is a great handicap for the Indian manufacturers of pharmaceuticals because the glass containers are not of the requisite standard and their products get deteriorated?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): Sir, the hon. Member had referred to the Pharmaceutical Inquiry Committee report of which he certainly seems to be a diligent student. An answer would have been furnished, if the question was framed differently but here the question has been tabled in such a manner that it is a general complaint, about which we have no information.

Shri V. P. Nayar: May I know whether the Government of India have done any work to find out the quality of the glass containers, especially in cases when they are required for packing pharmaceuticals? If so, what has been the result?

Shri T. T. Krishnamachari: I do not think that the National Laboratories in charge of the Government of India have undertaken this work.

UNEMPLOYMENT

***603. Shri D. C. Sharma:** Will the Minister of **Planning** be pleased to state:

(a) whether the Punjab Government have now furnished the Government of India with the data regarding incidence of unemployment in the State; and

(b) if so, whether the report received in this regard will be placed on the Table of the House?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) and (b). A brief statement summarising the appreciation conveyed by the Punjab Government is laid on the Table of the House. [*See* Appendix III, annexure No. 24.]

Shri D. C. Sharma: May I know what steps Government are taking to secure precise statistical information about the unemployment situation not only in the Punjab but all over India?

Shri S. N. Mishra. Recently I answered a question in regard to the investigations having been carried on in 23 cities in India, but I would like to add that in the last National Development Council meeting, it was decided to undertake a full-scale investigation throughout the country.

Shri D. C. Sharma: May I know how long those investigations will take and when the report will be available to the public?

Shri S. N. Mishra: That investigation would mostly be in the nature of periodical assessments and the availability of results would depend mostly upon the availability of the technical personnel required and also upon the magnitude of the tasks undertaken which, in all conscience, must be very vast.

Shri D. C. Sharma: The Punjab Government has suggested that legislation should be introduced under which the compulsory registration of unemployed persons should be made possible? Have the Government considered that proposal, and if so, what are their reactions?

Shri S. N. Mishra: As has been indicated in the reply itself, all these things are under separate consideration of the Government.

INDIANS IN KENYA

*605. **Shri Krishnacharya Joshi:** Will the **Prime Minister** be pleased to state:

(a) whether it is a fact that in pursuance of their policy of racial discrimination the Kenya Government is discouraging the Indian immigration and is stepping up the European immigration there;

(b) whether it is also a fact that the Secretary of State for colony gave evasive and unsatisfactory replies to the representation made by the Asian Representatives; and

(c) if so, the steps Government propose to take in the matter?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) The immigration laws of Kenya are, in theory, non-racial in character. In practice, however, it is the accepted policy of the Government of Kenya to step up European immigration and discourage Indian immigration into the colony; this policy is being enforced by administrative devices.

(b) Yes.

(c) Government do not think that any intervention on their part is called for just at present.

Shri Krishnacharya Joshi: May I know whether the policy adopted in Kenya is to eliminate immigrant communities? If so, what steps do Government propose to take?

Shri Anil K. Chanda: I have indicated in my answer that so far as Asians are concerned, they are finding it increasing difficult to get into Kenya now.

कोलम्बो योजना

*६०६. **श्री विभूति मिश्र :** क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि कोलम्बो योजना के अन्तर्गत भारत से सर्वेक्षकों के ४० जत्थे नेपाल जा रहे हैं , और

(ख) यदि हां तो वे कितने समय तक वहां रहेंगे और कौन-कौन सी चीजों का सर्वेक्षण करेंगे ?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) and (b). The Survey of India is carrying out a trignomentric survey of Kathmandu Valley and Birat Nagar areas of Nepal and the work will be completed by 1956-57. The cost of survey will be met by the Government of India under the Colombo Plan.

There is only one survey party although its members may at any one time be scattered around in small groups.

श्री विभूति मिश्र : इस सर्वे पार्टी पर कुल कितना खर्च पड़ेगा ?

Shri Anil K. Chanda: Up till now, we have spent about Rs. 28 lakhs.

OFFICE ACCOMMODATION

*607. **Shri B. N. Misra:** Will the Minister of **Works, Housing and Supply** be pleased to state:

(a) whether it is a fact that some of the offices of the Accountant General and the Deputy Accountant General, Posts and Telegraphs, are being shifted to a portion of the newly constructed building of the National Insurance Company Ltd. at Nagpur, Madhya Pradesh;

(b) if so, what are the conditions under which the said contract for lease has been made;

(c) whether Government made any efforts to get some other cheap and suitable accommodation for this office in any other part of the city or its near vicinity; and

(d) if so, with what results?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) Yes, Sir.

(b) The lease is for a period of 2 years in the first instance terminable at any time at lessee's pleasure after due notice. The rent is Rs. 18/- per hundred sft. per month inclusive of all Government or Municipal taxes. The lessor will be responsible for the maintenance and repairs of the building and provision of electrical, sanitary and drainage installations.

(c) Yes, Sir.

(d) Various other buildings were considered but were not found suitable either from the point of view of administrative convenience or because of the nature and extent of accommodation available or because of the rent demanded.

Shri B. N. Misra: Will the Government come forward with a list of the buildings which Government have leased for accommodating these offices?

Sardar Swaran Singh: The Nagpur Improvement Trust building, the Indian Mutual Insurance Company building, the Saraf Chamber building, Mount Road, and finally, the National Insurance Company building.

Shri B. N. Misra: While all these buildings which the hon. Minister has mentioned are in the heart of the town, particularly on main roads, may I know whether Government made any investigation near about Kanti and other township, where we have got a lot of buildings......

Mr. Speaker: Order, order. I am afraid he is going too much into administrative details.

INDIANS IN KENYA

***611. Shrimati Tarkeshwari Sinha:** Will the **Prime Minister** be pleased to state:

(a) whether Government are aware that representations have been made to the U. K. Government by Kenya Indian Congress, for requesting India to act as a mediator in settling Kenya affairs;

(b) whether Government have received any official information about this; and

(c) the reaction of Government thereto?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) to (c). The Kenya Indian Congress passed a resolution to this effect. The Government of India received no official information on this subject.

Shrimati Tarkeshwari Sinha: May I know whether in reply to a question in the House of Commons the Colonial Secretary said that this matter was referred to him and this has again been forwarded by him to the Kenya Government to proceed in this respect?

Shri Anil K. Chanda: That was the answer given. He said, 'I understand that the Kenya Government proposes to reply that the resolution has been noted. I do not intend to take any further action'.

Shrimati Tarkeshwari Sinha: May I know whether there is any likelihood of the Kenya Government amending its immigration laws by withdrawing the right of Kenya-born girls to bring their husbands into Kenya, if in case they marry persons outside Kenya?

Shri Anil K. Chanda: I remember last session there was a question on this matter. The Governor of Kenya said that he was prepared to have this matter discussed in the legislative council.

Shrimati Tarkeshwari Sinha: May I know whether Government have written any letter to them or given any indication of their mind in this matter because they are proceeding with these immigration laws?

Shri Anil K. Chanda: The views of the Government of India on these matters are very well known to the Kenya Government.

ATOMIC ENERGY

***612. Shri T. K. Chaudhuri:** Will the **Prime Minister** be pleased to state:

(a) whether it is a fact that a Research Reactor is expected to be installed in Trombay for developing research in regard to Atomic Energy at a cost of Rs. 1½ crores;

(b) whether there is any plan of designing and setting up a Reactor for the purpose of utilising Thorium at a second stage of the development of research; and

(c) whether there is a plan for the production of heavy water in the Bhakra-Nangal region for the projected Reactor in Trombay?

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): (a) Yes. It is intended to put up a Research Reactor in Trombay. The cost will depend upon its final design and on some other factors and cannot be stated accurately now.

(b) Yes.

(c) Yes.

Shri T. K. Chaudhuri: May I know whether Government have fixed any time-limit for the completion of the first Research Reactor in Trombay?

Shri Jawaharlal Nehru: Naturally, they have got a general idea of what they would like to do, but there are so many uncertain factors that any precise time-limit is difficult.

Shri T. K. Chaudhuri: May I know whether the claims of sites other than Trombay were considered by the Government and whether the opinions of any body of scientists, other than the atomic energy group, were considered by Government?

Shri Jawaharlal Nehru: The claims of various places were considered in the sense that a team went about looking into a number of places. Obviously no group can go to every part of India, and after considerable discussion lasting for about a year, they came to the conclusion that that was the best site. Many people, including some Indian scientists and some foreign scientists who came, were consulted on this matter.

DHOTIES (ADDITIONAL EXCISE DUTY) ACT

***613. Shri K. C. Sodhia:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the total amount realised under the Dhoties (Additional Excise Duties) Act, 1953, during the period from July, 1954 to October, 1954;

(b) the total yardage on which this duty was levied;

(c) the yardage on which duty at As. -/8/- per yard was realised; and

(d) the total number of mills who paid this duty?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) The total amount realised during the period July, 1954, to September, 1954, was Rs. 2,25,667/-. Figures for October, 1954 are not yet available.

(b) 1,700,107.

(c) 107.

(d) 24

Shri K. C. Sodhia: What was the total yardage of *dhoties* manufactured under ordinary law and on which no additional duties were imposed?

Shri Kanungo: I require notice. I can give the other one.

Shri K. C. Sodhia: Does the Government consider that this additional manufacture of *dhoties* is detrimental to the interests of the handloom industry?

Shri Kanungo: That is exactly the purpose for which it is meant—to help it.

Shri K. C. Sodhia: The hon. Deputy Minister replied that it was done in the interests of the handloom industry. I want to know how he has come to that conclusion?

Mr. Speaker: I do not think it is necessary to go into that.

HIRAKUD DAM

***614. Shri Lokenath Mishra:** Will the Minister of **Irrigation and Power** be pleased to state:

(a) how the coastal area of Puri in Orissa will be benefited by the Hirakud

Dam both by irrigation and power; and

(b) whether Government propose to make the Research Section in Hirakud permanent to obtain the maximum utilisation of the soil?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) The coastal area of Puri will get flood protection but not the benefit of irrigation and power from the Hirakud Dam Project (Stage I).

(b) This question has not yet been considered. It is primarily the responsibility of the Government of Orissa.

Shri Lokenath Mishra: Has the Government examined the possibility of water-logging in the deltaic areas of the district, as the rivers,—particularly the river mouths,—have almost silted up and blocked to sufficient discharge of rain and flood water?

Shri Hathi: That is being examined.

Shri Lokenath Mishra: When will we get the results?

Shri Hathi: It will take some time, I can't give an exact date now.

Shri Lokenath Mishra: Has the Government considered any measures to remedy this evil?

Shri Hathi: That can be done only after we have examined the proposal.

SHRINES IN PAKISTAN

*615. **Shri D. C. Sharma:** Will the Minister of **Rehabilitation be pleased** to refer to the reply to starred question No. 292 asked on the 31st August, 1954 and state the steps taken by the Pakistan Government to protect the Hindu and Sikh shrines and holy places after their ratification of the August 1953 Agreement?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): The agreement was ratified in April, 1954. The Government of Pakistan have issued instructions to their Provincial Governments etc. in regard to the preservation and maintenance of sanctity of religious places of Non-Muslims in that country on the 25th June, 1954 and directed them to take suitable steps for implementing the agreement both in letter and spirit.

Shri D. C. Sharma: May I know if the Government of India has any information about the precise number of Hindu and Sikh shrines and holy places that have been left by the Hindus and Sikhs in West Pakistan?

Shri J. K. Bhonsle: No, Sir, we have not got that figure.

Shri D. C. Sharma: May I know, if that is the situation, how is this agreement going to work, because the number of shrines is not known and the precise nature of the agreement is not known?

Shri J. K. Bhonsle: No, Sir: we know the actual number of shrines that are desecrated and as that is known we write to the Government of Pakistan. In this case it is known that 1,028 shrines have been desecrated and we have actually written to the Government of Pakistan on this subject.

Shri D. C. Sharma: Is the Government aware of the fact that some of the followers or devotees of these shrines are prepared to go there in small numbers and look after them? If so, has the Government taken up this question with the Pakistan Government and with what result?

The Minister of Rehabilitation and Food and Agriculture (Shri A. P. Jain): We have no such information and we have not received any request from any person that they want to go and look after the shrines in Pakistan.

Sardar Hukam Singh: May I know whether the batches of visitors who got permission to visit these shrines during the last seven years, have ever submitted any report on the actual condition of the shrines they visited and whether they require any repairs or other protection?

Shri A. P. Jain: Sometimes we have been receiving reports that the shrines are not being properly looked after and we have from time to time drawn the attention of the Pakistan Government in consonance with the agreement that has been arrived at.

Sardar Hukam Singh: May I know whether Government has directed its own representative in Pakistan to visit those shrines for himself and then make a report to this Government about the condition of those shrines?

Shri A. P. Jain: We have not taken any such action so far.

Sardar Hukam Singh: May I know whether the Government now propose to ask its representative there that he should go round, after getting permission, and see the condition of those shrines and report whether they require any repairs or other protection?

Shri J. K. Bhonsle: We had actually suggested to Pakistan Government that a Joint Commission may be appointed to go into this question, but, unfortunately, the Pakistan Government has not agreed to this suggestion.

अमलेखगंज-भीमफेड़ी सड़क

*६१९. **श्री विभूति मिश्र :** क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच हैं कि त्रिभुवन राजपथ के निर्माण के साथ ही सरकार अमलेखगंज-भीमफेड़ी सड़क की मरम्मत कराने जा रही हैं;

(ख) यदि हां, तो काम कब शुरू होगा और पूरा होने में कितना समय लगेगा, और

(ग) कितने खर्च का अनुमान हैं ?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Recent heavy floods in Nepal caused considerable damage to this link road, washed away 3 bridges, many embankments and several miles of the road. In response to Nepal Government's appeal, Government of India agreed to carry out the emergency repairs to make the road jeepable by the end of November 1954 and to construct the bridges before the next monsoon. The Nepal Government will do the rest of the work themselves.

(b) Work started soon after the floods in August 1954 and it is hoped to complete emergency repairs within the next few months.

(c) The details are being worked out but approximately Rs. 64·5 lacs would be necessary.

I may add, Sir, that since this reply was prepared, we have got information that this Amlekhganj-Bhimpedi road has been opened to traffic—both jeeps and lorries.

श्री विभूति मिश्र : क्या त्रिभुवन राजपथ ·· साल बरसात के पहले चालू हो जायेगा ?

Shri Anil K. Chanda: Attempts are being made to do that.

श्री विभूति मिश्र : अगर चालू हो जायेगा तो सड़क आम जनता के लिये रहेगी या सिर्फ सरकार के लिये रहेगी ?

प्रधान मंत्री तथा वैदेशिक कार्य एवं रक्षा मंत्री (श्री जवाहरलाल नेहरू) : जनता हमेशा हमारे सर आंखों पर रहती हैं, यह आप को जानना चाहिये ।

SECOND FIVE-YEAR PLAN

*620. **Shrimati Tarkeshwari Sinha:** Will the Minister of **Planning** be pleased to state:

(a) whether the broad outlines of the Second **Five-Year Plan have been** finalised; and

(b) if so, whether Government will lay a copy of it on the Table of the House?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) No.

(b) Does not arise.

Shrimati Tarkeshwari Sinha: May I know when the broad outlines of the next Five Year Plan are likely to be prepared?

Shri S. N. Mishra: I think this question about the broad outlines is somewhat vague, but I hope the draft proposal of the next Five Year Plan should be ready by this time next year.

Shrimati Tarkeshwari Sinha: May I know whether Government will give us an idea of the total outlay of the Second Five Year Plan, and what amount from that will be directed to the industrial sector?

Shri S. N. Mishra: The very first part of the question cannot be answered in view of the fact that any reply to it at this stage must be extremely conjectural and we do not want to hazard any conjecture on this point.

Shrimati Tarkeshwari Sinha: May I know whether Government has in mind the inclusion of major irrigation and power projects to be executed under the next Five Year Plan and if so, what are they?

Shri S. N. Mishra: Sir, as the House is aware, a technical committee designated as the Advisory Committee on Irrigation and Power has already been set up to recommend projects to be included in the Second Five Year Plan.

WRITTEN ANSWERS TO QUESTIONS

पंचवर्षीय योजना

*५६६. **श्री एम० एल० द्विवेदी :** क्या योजना मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या पंचवर्षीय योजना के अधीन होने वाले काम की प्रगति के बारे में समय-समय पर कोई जांच की गई हैं ; और

(ख) यदि हां, तो क्या उत्तर प्रदेश सरकार द्वारा कोई कालावधिक प्रगतिरिपोर्ट भेजी गई हैं ?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) Periodical progress reports are received by the Planning Commission from Central Ministries and State Governments. In addition, Planning Commission's Programme Advisers tour the States from time to time and visit selected individual projects.

(b) Yes. The Uttar Pradesh Government, in common with other State Governments, furnish periodical progress reports to the Planning Commission.

TRANSHIPMENT OF COAL FROM GHATS

***567. Shri S. N. Das:** Will the Minister of **Production** be pleased to state:

(a) whether it is a fact that in the transhipment of coal to North Bihar through Mokameh, Bhagalpur, and Dighaghats, brick burning coal has the last priority;

(b) if so, the reasons therefor; and

(c) whether the question of upgrading this priority has been considered or is being considered to facilitate transhipment of such coal to North Bihar?

The Minister of Production (Shri K. C. Reddy): (a) Dighaghat is not a transhipment point for coal traffic to North Bihar. No priorities are laid down in the transhipment of coal to North Bihar through Mokameh and Bhagalpur Ghats. All coal wagons arriving at these points are transhipped in the order in which the wagons arrive at these points.

It is, however, presumed that the Member is referring to the Priority Classification of Industries for purposes of allocation of wagons. In this classification, brick-burning coal has the last priority.

(b) and (c). The brick-burning quota taken as a whole, is large and so long as the present transport facilities, including wagon supply are inadequate to meet the supplies in full, supplies of brick-burning coal have to be regulated according to the overall **availability of wagons and** other transport facilities, as otherwise it will result in a number of other producing industries going short of coal. In the case of North Bihar supply is governed by transhipment facilities at Mokameh Ghat and within the existing facilities coal has to be supplied to the railways and to the public including for brick-burning purposes.

The question of upgrading the priority for brick-burning was considered by the Government on various occasions but had to be abandoned in view of the consideration mentioned above.

It must be emphasised however that the priority classification does not imply that the requirements having higher priority are met in full before coal is allotted for brick-burning. The fact that this too is an essential requirement has always been recognised and the brick-burning quota for North Bihar has been fixed in consultation with the Bihar Government, taking into consideration the importance of brick-burning coal and the transport facilities available.

BOUNDARY DISPUTE

***568. Sardar Hukam Singh:** Will the **Prime Minister** be pleased to refer to the reply to starred question No. 4 asked on the 23rd August, 1954 and state whether any final decision has since been reached regarding the boundary disputes between India and Pakistan on the Western border?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): No Sir. Negotiations are still in progress.

BY-PRODUCTS AT SINDRI FERTILISERS FACTORY

***575. Pandit D. N. Tiwary:** Will the Minister of **Production** be pleased to refer to the reply to starred question No. 759 asked on the 8th March, 1954 and state the reasons for not developing production of by-products at Sindri Factory as is done at Messrs. Fertilizers and Chemicals (Travancore) Limited?

The Minister of Production (Shri K. C. Reddy): The Production of by-products at the Sindri Factory is, in fact, being developed. The nature and quantities of the by-products recoverable at the two places have, however, to depend on the raw materials and the processes employed. With the recent commissioning of the coke oven battery at Sindri, the Company is arranging to develop new by-products. A statement is laid on the Table of the Lok Sabha explaining what is being done at Travancore and what is being developed at Sindri and the differing processes which are responsible for the difference. [*See* Appendix III, annexure No. 25.]

EMIGRATION

***578. Shri Gidwani:** Will the **Prime Minister** be pleased to state:

(a) the total number of applications received from Indians for migration to Canada, U.S.A. and Australia for permanent settlement there during the years of 1948 to 1953;

(b) how many of them were allowed to migrate; and

(c) the criteria for selection?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) to (c). Applications for migration are received and dealt with directly by the Embassies of the foreign countries concerned. The criterion for selection varies according to the particular emigration laws of each country. The Government of India have no record of these applications or of the number of applicants actually selected. We have no emigration arrangements with Australia.

जूता उद्योग

***५८१. श्री नवल प्रभाकर :** क्या वाणिज्य तथा उद्योग मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच हैं कि आगरे के चमड़ा उद्योग और विशेषतः जूता उद्योग के विकास के निमित्त जांच करने के लिये एक अधिकारी आगरा भेजा गया था ;

(ख) यदि हां, तो उस जांच का क्या परिणाम हुआ ?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) Yes, Sir.

(b) The officer concerned has made certain recommendations for the development of the industry and these recommendations are under consideration.

EAST BENGAL DISPLACED PERSONS

***582. Shri B. K. Das:** Will the Minister of Rehabilitation be pleased to state:

(a) the number of East Bengal displaced persons who arrived in West Bengal during 1954 after deserting their places of rehabilitation in Bihar and Orissa;

(b) how many of them came from camps in those States; and

(c) how their cases have been dealt with?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) 5,259 persons deserted from Rehabilitation colonies and camps from Bihar and Orissa during this year.

(b) 1,823 persons.

(c) The Government of West Bengal have accepted the responsibility of rehabilitation of those persons who arrived in West Bengal before September, 1954. To others who have arrived since September, 1954 relief is being given. The entire problem of deserters from Bihar and Orissa is being looked into by the Chief Minister West Bengal.

INDO-CHINA

***586. Shri Ibrahim:** Will the Prime Minister be pleased to state:

(a) whether the conflict between Viet-Nam Government and the Viet-Nam National Army has in any way affected India's position in Indo-China; and

(b) how far India has been able to achieve its objective in Indo-China?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) The International Commission at Viet Nam is concerned with the implementation of the Geneva Agreement on Viet Nam, and is not concerned with the internal affairs in either zone of Viet Nam. The Commission is discharging its tasks satisfactorily. All prisoners of war and civilian internees have been released and handed over to the respective parties, and forces of opposing sides, under the terms of the Agreement, are being re-grouped into "designated areas".

(b) The International Commissions in Viet Nam, Laos and Cambodia are successfully discharging their task of implementing the Geneva Agreements. Considerable progress has been made in all the three States according to the terms of the Agreements in regard to the release and exchange of prisoners of war and civilian internees, withdrawal and re-groupment of forces, and transfer of administration from one opposing side to the other.

The task of the International Commissions will have been fulfilled only after elections have taken place under satisfactory conditions.

TEA GARDENS (SURVEY)

***590. Shri N. M. Lingam:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether any survey of marginal tea gardens has been undertaken;

(b) if so, the result thereof; and

(c) what measures Government propose to take for the rehabilitation of such gardens?

The Minister of Commerce (Shri Karmarkar): (a) to (c). A survey of the marginal gardens in Cachar and Tripura areas only was undertaken by a Special Officer appointed by the late Central Tea Board. The Special Officer submitted his report recently to the Tea Board which considered it at its last meeting held in

August, 1954. Action on matters concerned with the State Governments has already been taken or initiated by the Governments concerned. The main recommendation with which the Central Government is concerned is with regard to the setting up of a machinery for financing the marginal gardens. This recommendation is under consideration.

INDIAN EMBASSY AT PRAGUE

*591. **Dr. Rama Rao:** Will the **Prime Minister** be pleased to state:

(a) whether the attention of Government has been drawn to certain complaints against Indian Embassy at Prague, made by Sri J. C. Kumarappa which appeared in certain sections of the Indian Press; and

(b) whether instructions have been issued to Indian Embassies abroad to assist Indian Nationals when they are in need of their assistance?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Yes. Government have received a detailed report from their Embassy in Prague and are satisfied that the allegations made have no substance and are uncharitable. Dr. Kumarappa arrived in Prague unannounced and without a Czech entry visa. The Embassy had not been informed about his arrival. Nevertheless, they extended every facility they could to him and even succeeded in getting some visas for him which are normally not issued at short notice. Dr. Kumarappa had apparently gone to Europe at the instance of some Peace Committee whose guest he was and who were supposed to look after him. It appears that the Peace Committee were not very successful in the arrangements they made.

(b) Instructions were issued to our Missions abroad in January 1949 to render all possible assistance to Indian nationals visiting their areas. But such assistance can only be rendered satisfactorily if intimation is sent to the Missions of the visit and of the facilities required.

PLASTIC INDUSTRY

*592. **Shri Dhusiya:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Plastic Industry is a protected industry; and

(b) whether plastic manufactures are of the standard recognized by the Indian Standards Institution?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) Only two sections of the Plastic Industry are protected *viz.*, (i) Phenol formal dehyde molding powder and (ii) electrical accessories made of plastic.

(b) No standard specifications for plastic goods have yet been formulated. The Indian Standards Institution have, however, set up a Sectional Committee for formulating standards for Phenolic Moulding Powders both for general and electrical purposes.

If the term "Plastic material" is, however, taken in a wide sense so as to include rubber insulated cables, wiring accessories, lac, shellac, etc., the Indian Standards Institution has laid down standards for these products which are being followed by the industry.

INVITATION TO THE KING OF CAMBODIA

*593. **Shri Madhao Reddi:** Will the **Prime Minister** be pleased to state whether an invitation has been extended to the King of Cambodia to visit India in the near future?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): The Prime Minister extended a personal invitation to the King of Cambodia during his recent visit to Cambodia.

INDUSTRIAL HOUSING SCHEME, MADHYA PRADESH

*594. { **Shri N. A. Borkar:**
Mulla Abdulla Bhai:

Will the Minister of **Works, Housing and Supply** be pleased to refer to the reply to starred question

No. 853 asked on the 13th September, 1954 and state:

(a) the total number of houses constructed under the Industrial Housing Scheme during the last three years in the State of Madhya Pradesh;

(b) the total number of the houses occupied by the workers during the said period; and

(c) whether it is a fact that the workers are not occupying the houses due to the high rent fixed by the Housing Board?

The Minister of Works, Housing and Supply (Sardar Swaran Singh):

(a) Out of a total 1,000 tenements sanctioned during 1951-52 to 1953-54, 100 units have been completed in all respects; 292 are complete except for water and sewer connections and 50, nearing completion, will be ready for occupation soon. The remaining 558 tenements are at various stages of construction.

(b) 100 tenements have been occupied.

(c) No, Sir; The rents do not exceed the maxima prescribed by the Govt. of India.

PASHMINA WOOL

***595. Shri Hem Raj:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether in spite of the ban on the export of *Pashmina* wool, it is being exported by postal parcels and other means to U.S.A.; and

(b) if so, the steps Government propose to take to check its export?

The Minister of Commerce (Shri Karmarkar): (a) and (b). The export of *pashmina* wool was banned from 14th June 1951 except in the case of exports by post parcel. On a further review, the ban has been extended to exports by post also with effect from 30th November 1954.

SURPLUS DEFENCE STORES

***598. Sardar Iqbal Singh:** Will the Minister of **Works, Housing and Supply** be pleased to refer to the reply to starred question No. 1739 asked on the 12th April, 1954 and state:

(a) whether any surplus defence stores were disposed of by private negotiations during the current year;

(b) if so, the value thereof; and

(c) the total value of surplus defence stores still in hand?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) Yes, Sir.

(b) Rs. 31,800.

(c) Rs. 30:12 crores (Book value) as on 31st October 1954.

भूमि विकास सुधार

***६०१. श्री एम० एल० द्विवेदी :** क्या **योजना मंत्री** यह बताने की कृपा करेंगे कि :

(क) विभिन्न राज्यों में भूमि सुधार संबंधी कार्यक्रमों को कार्यान्वित करने के लिये प्रशासनीय और विकास संगठन स्थापित करने की दिशा में अब तक क्या प्रगति हुई है ;

(ख) क्या भूमि सुधार में चाव लेने वाले और आयोग की समिति को सलाह देने के लिये तैयार गैर-सरकारी लोगों की एक सूची तैयार की गई है , और

(ग) यदि हां, तो उन व्यक्तियों के नाम क्या हैं ?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) State Governments carry out their land reform programmes through their revenue administrations and the appropriate departments.

(b) No.

(c) Does not arise.

CENTRAL MARKETING ORGANISATION

***604. Shri S. N. Das:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the scheme for setting up of the Central Marketing Organisation for facilitating and developing the marketing of cottage industries products both in India and abroad has been finalised and has been put in operation;

(b) if so, what are the details thereof; and

(c) how it will be financed?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) to (c): A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 26.]

DEVELOPMENT COUNCIL FOR JUTE INDUSTRY

***608. Shri B. K. Das:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) what steps have been taken for setting up a Development Council for the jute industry; and

(b) whether the personnel of the Council has been decided upon?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) and (b). Government do not consider it necessary at present to set up a Development Council for the jute industry.

INDIANS EMPLOYED IN FOREIGN EMBASSIES IN INDIA

***609. Shri Ibrahim:** Will the **Prime Minister** be pleased to state:

(a) the number of Indians employed in the Foreign Embassies and Legations at New Delhi;

(b) whether Government have received any representation from them regarding the unsatisfactory terms and conditions of services offered to them; and

(c) if so, the action Government propose to take in the matter?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) A statement showing the number of Indians employed by Foreign Missions in New Delhi has been placed on the Table of the House. [*See* Appendix III, annexure No. 27.]

(b) and (c). No, Sir.

SIKH PILGRIMS TO PAKISTAN

***610. Shri Gidwani:** Will the **Prime Minister** be pleased to state whether it is a fact that the Pakistan Government did not give permission this year to a batch of Sikh pilgrims to visit Gurdwara Nankana Sahib, the birthplace of Guru Nanak in West Pakistan?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): The Pakistan Government gave permission for the visit of 250 Sikh pilgrims to Gurdwara Nankana Sahib, which was to take place from the 8th to the 11th November, 1954. This was sponsored by the Shiromani Gurdwara Parbandhak Committee, Amritsar. Their permission was, however, received by the Indian High Commissioner in Karachi on the 1st November, *i.e.* only 7 days before the date on which the pilgrimage was due to commence.

In view of the shortness of notice, the Shiromani Gurdwara Prabandhak Committee stated that they were unable to finalise the arrangements for the pilgrimage, which had accordingly to be cancelled.

भारत और यूनान के बीच दूतावासों की स्थापना

*६१७. श्री एस० एन० दास : क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि क्या भारत और यूनान सरकारों के बीच दोनों देशों के बीच राजनयिक सम्बन्ध स्थापित करने के लिये कोई बातचीत चल रही हैं ?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): No such negotiations are taking place.

EDUCATION THROUGH RADIO

*618. **Shri Ibrahim:** Will the Minister of **Information and Broadcasting** be pleased to state:

(a) whether there was any proposal for educating the masses through Radio; and

(b) if so, why the scheme has not yet been given effect to?

The Minister of Information and Broadcasting (Dr. Keskar): (a) and (b). Apart from the general programmes of All India Radio, which are also meant for educating the masses, special broadcasts are undertaken for rural and industrial populations. There are also school broadcasts for education in the narrow sense. It is not clear to what special scheme the hon. member is referring.

VALUE OF STANDARD ACRE

*619. **Shri Gidwani:** Will the Minister of **Rehabilitation** be pleased to refer to the reply to starred question No. 692 asked on the 8th September, 1954 and state:

(a) whether Government have come to a definite decision regarding the fixation of the value of Standard Acre of agricultural land; and

(b) whether it is a fact that while giving compensation to the inmates of destitute homes the value of Standard Acre has been calculated at Rs. 350?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) The matter is still under consideration.

(b) Yes. The figure of Rs. 350 per standard acre has been provisionally adopted if such claimants are paid in cash.

INDIANS IN CEYLON

*621. **Shri Krishnacharya Joshi:** Will the **Prime Minister** be pleased to state:

(a) the total number of persons who have been repatriated to India after the recent talks between Prime Ministers of India and Ceylon in Delhi on the issue of registration of Indians in Ceylon; and

(b) the steps taken by Government to rehabilitate them?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Only those who are indisputably Indian nationals and whose temporary residence permits issued by the Government of Ceylon have expired are being repatriated to India. The recent talks had no reference to them.

From the 11th September to 9th November, 1954, 605 persons have left Ceylon after receiving quit notices under the repatriation scheme of the Government of Ceylon.

About three times this number, have left Ceylon in the same period voluntarily, though they held valid Temporary Residence Permits and could have stayed on for some more time if they wished.

(b) Those who have arrived so far are settling down in normal life, without any assistance from the Government. The situation is being watched closely and the question of their rehabilitation will be taken up if need arises for it.

COAL

455. **Sardar Iqbal Singh:** Will the Minister of **Production** be pleased to state the estimated total tonnage of coal likely to be raised from different collieries and the tonnage likely to be moved by the wagons this year?

The Minister of Production (Shri K. C. Reddy): It is presumed that information is required by the Member regarding the anticipated total raisings and despatches of coal in India during this year. The raisings and despatches are expected to be approximately 36 million tons and 32 million tons respectively.

TRADE DELEGATIONS

456. **Sardar Iqbal Singh:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the number of trade delegations sent abroad during the years 1953 and 1954 upto the end of September, 1954;

(b) the personnel of the delegations and the purpose in each case; and

(c) the names of the countries which they visited and how long they stayed there?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) to (c). A statement giving the necessary information is attached. [*See* Appendix III, annexure No. 28.]

TENTS

457. **Shri N. B. Chowdhury:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the quantity and value of tents exported from India during the years 1952-53, 1953-54 and upto the 30th September, 1954 in 1954-55; and

(b) the names of the countries to which these have been exported?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) and (b). A statement showing the quantities of tents licensed for export from November, 1952 to September, 1954 and the major destinations to which they were shipped is attached. [*See* Appendix III, annexure No. 29.] The figures prior to November, 1952 are not available. The value of the tents and the quantity actually exported are not known.

सरल संगीत

४५८. **श्री एम० एल० द्विवेदी :** क्या **सूचना तथा प्रसारण मंत्री** उन गीतों और कलाकारों की एक सूची सभा-पटल पर रखने की कृपा करेंगे, जो आकाशवाणी द्वारा सरल संगीत को विकसित करने के सम्बन्ध में तैयार किये गये हैं ?

The Minister of Information and Broadcasting (Dr. Keskar): All India Radio has a large number of centres for the production of light music. The number of songs prepared by each of these centres runs into hundreds and others are continuously being prepared. The task of tabulating the names of all these songs and their singers is one involving much work and no useful purpose is likely to be served by preparing such a list.

DISPLACED PERSONS

459. **Pandit Munishwar Datt Upadhyay:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the amount spent uptil now on the evacuation, relief and rehabilitation of displaced persons from West Pakistan and East Pakistan, separately;

(b) the number of houses constructed by Government so far for displaced persons, and the number of those which are not yet occupied by displaced persons;

(c) the percentage of the displaced persons who are cultivators and have been allotted lands for cultivation and tenure of such lands; and

(d) what is the position of security of tenure of the displaced persons in their tenancy?

The Deputy Minister of Rehabilitation (Shri J.K. Bhonsle): (a) to (d). The information is being collected and will be placed on the Table of the Sabha in due course.

GOODWILL MISSIONS FROM ABROAD

460. **Shri Krishnacharya Joshi:** Will the **Prime Minister** be pleased to state:

(a) the number of Goodwill Missions of foreign countries which visited India during 1954; and

(b) the names of countries from where the Members of the Missions came?

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): (a) and (b). A list of Missions and Delegations which visited India during 1954 was given in reply to the Starred Question No. 87 in the Rajya Sabha on the 30th August 1954, a copy of which is laid on the Table of the House. [*See* Appendix III, annexure No. 30.]

2. In addition, the following missions and delegations also visited this country this year:—

(i) Ceylon Parliamentary Delegation

(ii) Japanese Parliamentary Delegation

(iii) Ceylon Railway Delegation.

(iv) East German Trade Delegation.

(v) Chinese Trade Delegation.

3. A Chinese Cultural Mission will visit India this month.

4. Many of these missions and delegations can be deemed to be "goodwill missions" in their own spheres.

PURCHASES

461. Th. Lakshman Singh Charak: Will the Minister of **Works, Housing and Supply** be pleased to state:

(a) the purchases of machinery made by the Director General of Supplies and Disposals during the years 1953-54 and 1954-55; and

(b) the names of countries from which the purchases have been made?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) 1953-54 Rs. 7·31 Crores.

1954-55 (upto September 1954) Rs. 4·88 Crores.

(b) India, U.K., Canada, U.S.A., Germany, Sweden, Czechoslovakia, Yoguslavia, Holland, France, Switzerland, Austria, Belgium, Denmark, Italy, Hungary, U.S.S.R., Norway Poland and Japan.

नेपाल से अनाज का निर्यात

४६२. श्री विभूति मिश्र : क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि नेपाल सरकार ने धान, चावल और दालों के भारत निर्यात करने पर रोक लगा दी है ;

(ख) क्या यह सच है कि बहुत से भारतीय राष्ट्रजन नेपाल में खेती करते हैं , और

(ग) यदि हां, तो सरकार ने इन किसानों की अपनी उपज के निर्यात के बारे में क्या सुविधायें दिलाई हैं ?

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): (a) No Sir. Only a temporary local ban has been imposed in one or two districts which suffered heavily by recent floods. This ban is also likely to be lifted shortly.

(b) Yes, Sir.

(c) Under the existing procedure, these farmers can export the produce of their land in Nepal on payment of export duty and without obtaining licences.

ROAD MILEAGE IN ANDHRA STATE

463. Shri C. R. Chowdary: Will the Minister of **Planning** be pleased to state:

(a) the mileage (i) that has been completed (ii) that is under construction and (iii) that has to be constructed under the First Five Year Plan under the head State Roads in Andhra during 1951-56 period; and

(b) the amount allocated for the purpose and the amount utilised so far?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) and (b). A statement giving the required information is placed on the Table of the House. [*See* Appendix III, annexure No. 31.] Information regarding the mileage of roads under construction is not readily available in the Planning Commission.

CEMENT FACTORY

464. Shri C. R. Chowdary: Will the Minister of **Commerce and Industry** be pleased to state:

(a) the name of the person who has been given the licence for construction of a cement factory in Gurajala Taluq, Guntur District; and

(b) the conditions on which the licence has been granted?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) No such licence has so far been granted, but an application for a licence for a cement factory in Guntur District is under consideration.

(b) Does not arise.

COMMUNITY RADIO SETS

465. Th. Lakshman Singh Charak: Will the Minister of **Information and Broadcasting** be pleased to state:

(a) the number of community radio sets available in the country on the 30th of April, 1954;

(b) whether Government propose to instal more community sets in the rural areas;

(c) whether they will be installed on a co-operative basis; and

(d) the policy of Government in this matter?

The Minister of Information and Broadcasting (Dr. Keskar): (a) Figures are collected quarterly and the figure on the 31st March 1954 was 9,944.

(b) Yes.

(c) and (d). There is at present a scheme under consideration by which 50 per cent. of the cost of installation of a standard set will be borne by the Central Government and the remaining 50 per cent. is to be borne by the State Governments of which at least 25 per cent. is expected to be paid by the villagers. These sets will be installed within the coverage of the transmitters of All India Radio.

COAL

466. Ch. Raghubir Singh: Will the Minister of **Production** be pleased to state the reasons for the decline in the export of coal during 1953-54?

The Minister of Production (Shri K. C. Reddy): The export of coal during 1953-54 can be said to have declined when compared to the quantities exported during the previous two years *viz.* 1951-52 and 1952-53, in which India had exceptionally good markets owing to abnormal world conditions, but exports in 1953-54 have generally been higher than in the years prior to 1950-51. The reasons for decline in exports in 1953-54 as compared to previous two years are mainly due to the disappearance of the exceptional conditions that favoured the increased export of Indian coal *viz.* coal shortage in Europe and the U.K., internal transport difficulties in South Africa, restricted production in Australia and the difficult shipping position due to the Korean War.

प्रैस आयोग

४६७. सेठ गोविन्द दास : क्या सूचना तथा प्रसारण मंत्री यह बताने की कृपा करेंगे कि वर्ष १९५२, १९५४ और १९५४-५५ में प्रैस आयोग के व्यय के लिये क्या राशि स्वीकृत की गई है ।

The Minister of Information and Broadcasting (Dr. Keskar): The following are the figures of the budget provision and the actual expenditure on the Press Commission:

	Budget Provision Rs.	Actual Expenditure Rs.
1952-53	..	76,902
1953-54	2,68,000	4,15,144
1954-55	1,55,000	1,08,500 (includes an anticipated expenditure of about Rs. 5,800 in repect of outstanding payments).

SOAP INDUSTRY

468. Shri Nanadas: Will the Minister of **Commerce and Industry** be pleased to state:

(a) the names and location of small soap industrial units in India which have been given financial assistance (subsidy and loan) by Government during April to September, 1954;

(b) whether there has been a short fall in the amount of financial assistance given as compared to previous years; and

(c) if so, the reason therefor?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) The names of Institutions which have been given assistance during April to September, 1954 are:

1. Maharashtra Seva Sangh, Poona.
2. Saurashtra State Board, Rajkot.

(b) No, Sir.

(c) Does not arise.

ACCOMMODATION FOR AMBASSADORS ABROAD

469. Shri Ibrahim: Will the **Prime Minister** be pleased to state:

(a) whether Indian Ambassadors and Envoys etc. deputed in foreign countries are provided the same scale of accommodation as officers of equal status are provided in India;

(b) whether the Ambassadors and Envoys etc. occupy the accommodation provided to them immediately; and

(c) if not, the reasons therefor?

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): (a) No. The scales of accommodation in foreign countries are not equated to the scales of accommodation in India. The accommodation is provided after taking into account various factors such as the importance of the Mission, the grade and status of the Ambassador, Envoy etc. and the representational duties required to be performed etc.

(b) and (c). Where accommodation is available our Ambassadors and Envoys etc. are required to occupy it straightaway unless there are special reasons such as the accommodation not being in a fit condition for immediate occupation. Where accommodation is not available, the Ambassadors and Envoys etc. are temporarily put up in hotels and are required to move into accommodation as soon as it can be found.

DOCUMENTARIES

470. Sardar Hukam Singh: Will the Minister of **Information and Broadcasting** be pleased to state:

(a) whether it is a fact that Government received many films (documentaries and others) from International Organisations like U.N.O., U.N.E.S.C.O., F.A.O. W.H.O. and from U.S.A. Under Point Four Programme, T.C.A. and others during the past four years;

(b) if so, their number and the total length of the films;

(c) whether any conditions were attached to these presents;

(d) whether any rental was collected for them from exhibitions; and

(e) if so, the total amount collected per film?

The Minister of Information and Broadcasting (Dr. Keskar): (a) to (e). Information is being collected and will be laid on the Table of the House.

EROSION IN ASSAM

471. Shri Amjad Ali: Will the Minister of **Irrigation and Power** be pleased to state:

(a) the number of persons affected by erosion in the State of Assam; and

(b) the area eroded?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) 52,860 persons.

(b) 56,491 acres.

COAL

472. Shri T. K. Chaudhuri: Will the Minister of **Production** be pleased to state:

(a) the present estimated stock of coal accumulated at pit-heads;

(b) whether Government are aware of the danger of spontaneous combustion to which these accumulated stocks are liable;

(c) whether there is any system of reporting about these cases of spontaneous combustion and whether any statistics are kept in this regard; and

(d) the total number of cases of such spontaneous combustion and the extent of loss (in terms of money value) incurred during the years 1952 and 1953?

The Minister of Production (Shri K. C. Reddy): (a) The stock on 30th September 1954 was approximately 2·5 million tons in Bengal/Bihar fields and 3·2 million tons, taking into account all the collieries in India.

(b) Government are aware that stocks of coal are liable to spontaneous combustion, unless properly stacked with regular ventilation and other arrangements.

(c) Cases of spontaneous combustion are reported by the collieries to the Chief Inspector of Mines as required under the Indian Coal Mines Regulations. Statistics relating to such occurrences are published in the Annual Reports of the Chief Inspector of Mines.

	1952	*1953*
(d) :		
Total number of cases	8	11
Extent of loss (in terms of money value)	Rs. 3 Lakhs approximately	Rs. 4,16 lakhs approximately.

FORWARD TRADING IN GROUNDNUTS

473. Shri S. N. Das: Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Forward Markets Commission has submitted any report on forward trading in groundnuts;

(b) whether Government have considered the report and taken any decision thereon; and

(c) in case the recommendation has been accepted, how long it will take to implement them?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) Yes, Sir.

(b) and (c). The report is under consideration.

HIRAKUD PROJECT

474. Shri Sarangadhar Das: Will the Minister of **Irrigation and Power** be pleased to state:

(a) the number of mechanical and electrical engineers and their assistants engaged in mechanical and electrical construction on the Hirakud Dam Project;

(b) the number out of them who are being trained to take charge of the Hydro-Electric plant and the irrigation system; and

(c) the number of engineers among them who hail from Orissa?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) 54 Electrical and Mechanical Engineers of the rank of Assistant Engineers and above 164 Supervisors.

(b) All of them are being trained on Hydro-Electric and irrigation works, but after completion, only a few of them would be required to take over charge of maintenance.

(c) 38 Electrical and Mechanical Engineers and Supervisors.

HOUSING SCHEME FOR LOW-INCOME GROUP

475.
Shrimati Tarkeshwari Sinha:
Shri Hem Raj:
Shri Gidwani:
Shri Sanganna:
Shri Thimmaiah:
Shri Sadhan Gupta:

Will the Minister of **Works, Housing and Supply** be pleased to refer to the reply to starred question No. 35 asked on the 15th November, 1954 and lay on the Table of the House a copy of the Housing Scheme for 'Low-income-groups'?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): A copy of the Low-Income Group Housing Scheme is placed on the Table of the House. [*Placed in the Library. See* No. S-456/54.]

STEEL INDUSTRY

476. **Shri S. N. Das**: Will the Minister of **Commerce and Industry** be pleased to state:

(a) what progress has been made by the Expert Committee appointed to assist Government in the preparation of new schedules of extra charges for the products of the Indian Steel Industry;

(b) how long it will take the Committee to finish its work;

(c) whether any time limit has been set for the Committee; and

(d) whether the steel producing companies have undertaken a detailed work of the study?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) The Committee has completed a study of costs of production of different sizes and sections of steel in different countries and is now engaged in working out what should be the appropriate extra charges for sizes and sections produced by Indian Mills in the light of the practice in force in other countries.

(b) and (c). As the study is of a detailed and technical nature and has been further complicated by the fact that extensive reorganisation and expansion of the existing works is in progress, it is expected that the Committee will take some time yet for finishing its work. No time limit has been set for completion of the work of the Committee, but every endeavour is being made to complete the work as quickly as possible.

(d) Yes, Sir.

RURAL INDUSTRIALISATION IN MYSORE

477. **Shri Keshavaiengar:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the number of schemes for rural industrialisation submitted by the Mysore State during the years 1953-54 and 1954-55;

(b) the number among them which were sanctioned by the Centre; and

(c) the total amount sanctioned for such schemes during the above period?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) 59 schemes.

(b) 45 schemes.

(c) Rs. 18,12,800.

ADVERTISEMENTS TO NEWSPAPERS

478. **Shrimati Tarkeshwari Sinha:** Will the Minister of **Information and Broadcasting** be pleased to state:

(a) whether Government have given instructions to all the Departments to stop the practice of giving advertisements to Newspapers direct;

(b) if so, the name of the Agency through which the Government advertisements will be given to newspapers in future; and

(c) whether various State Governments are also going to follow these instructions?

The Minister of Information and Broadcasting (Dr. Keskar): (a) and (b). Government's instructions are that all the Ministries of the Central Government and their Attached and Subordinate offices are to issue their advertisements through the Advertising Consultant of the Ministry of Information and Broadcasting;

(c) These instructions do not apply to the State Governments who make their own arrangements regarding the issue of their advertisements.

IMPHAL

479. **Shri L. Jogeswar Singh:** Will the **Prime Minister** be pleased to state:

(a) the area of the Cantonment boundary (the 4th Assam Rifles) in Imphal town in proportion to the whole area of the Imphal town to which municipality is to be extended;

(b) the area of land now lying waste and unutilised out of the reserve for the Assam Rifles;

(c) whether it is a fact that the area of the reserve is too big as compared to the area of the municipal town; and

(d) whether Government consider the desirability of handing over the surplus land in the reserve to the Civil Administration to facilitate the extension of the Imphal town in order to relieve the congestion of the over-crowded population of the town?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) to (d). The information is being collected and will be laid down on the Table of the House.

CEMENT

480. Shri L. Jogeswar Singh: Will the Minister of **Commerce and Industry** be pleased to state:

(a) the procuring and selling prices per ton of cement in Manipur State;

(b) whether it is a fact that the differences between the procuring and selling prices is very great;

(c) if so, the reasons therefor; and

(d) the steps that Government propose to take to see that the high price come down to the normal reasonable level?

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): (a) Procuring price at Calcutta is Rs. 96-5-8 per ton and selling price in Manipur is Rs. 155-15-0 per ton.

(b) to (d). The selling price in Manipur is fixed by the Government of Manipur on the basis of the procuring price at Calcutta *plus* cost of transport from Calcutta to Manipur, handling and other incidental charges, and dealers' commission. Considering the remoteness of Manipur from the nearest cement factories, the selling price is not considered to be unduly high.

PROGRAMME ADVISORY COMMITTEES

481. Shri Veeraswamy: Will the Minister of **Information and Broadcasting** be pleased to state:

(a) the number of Members of the Programme Advisory Committees separately of Madras, Trichinopoly, Kozhikode, and Vijayawada Stations of All-India Radio; and

(b) the names of the Members of the Programme Advisory Committee of the Trichinopoly Station of A.I.R.?

The Minister of Information and Broadcasting (Dr. Keskar): (a) and (b). A statement giving the information is placed on the Table of the House. (*See* Appendix III, annexure No. 32].

SUBSIDISED INDUSTRIAL HOUSING SCHEME WEST BENGAL

482. { **Shri K.K. Basu:**
Shri N. B. Chowdhury:

Will the Minister of **Works, Housing and Supply** be pleased to state:

(a) the amount utilised so far by the West Bengal Government out of the amount sanctioned as loan and subsidy by the Central Government under the Subsidised Industrial Housing Scheme;

(b) whether any houses under the scheme have been built in Sadar Subdivision of 24 Parganas;

(c) if so, the rate of rent charged; and

(d) the total number of workers of West Bengal getting housing benefits under the Scheme?

The Minister of Works Housing and Supply (Sardar Swaran Singh): (a) The West Bengal Government were sanctioned Rs. 17,73,000 as subsidy and Rs. 2,88,000 as loan for the construction of tenements. Out of this, an amount of Rs. 1,56,000 as subsidy and Rs. 1,68,000 as loan have actually been utilised by that Government so far.

(b) No.

(c) Does not arise.

(d) The construction of 788 tenements has been undertaken by the West Bengal Government for the benefit of the industrial workers.

SUBSIDISED INDUSTRIAL HOUSING SCHEME ORISSA

483. Shri Lokenath Mishra: Will the Minister of **Works, Housing and Supply** be pleased to state:

(a) the amount, if any, sanctioned and paid to the Government of Orissa under the subsidized Industrial Housing Scheme;

(b) whether the Government of Orissa has spent the amount directly or through the Industrial Employers or as direct payment to the employees under the Industrial Housing Scheme;

(c) the names of the places where the tenements have been built; and

(d) the cost of their construction?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): (a) and (b). Rs. 3·79 lakhs as loan and an equal amount as subsidy under the subsidised industrial housing scheme have been sanctioned for the construction of 281 tenements at Cuttack by the Government of Orissa. Out of this Rs. 2·53 as loan has so far been paid to that Government. A further sum of Rs. 23.09 lakhs as loan and Rs. 4:72 lakhs as subsidy have been sanctioned under the subsidised industrial housing scheme to industrial employers. Out of this Rs. 5·67 lakhs as loan and Rs. 3·78 lakhs as subsidy have actually been paid to the industrial employers. No amount has been sanctioned or paid to the employees. In addition under the industrial housing scheme of 1949 a loan of Rs. 20 lakhs has been sanctioned to Orissa Government out of which they have utilised Rs. 16 lakhs.

(c) and (d). A statement is placed on the Table of the House. [*See* Appendix III, annexure No. 33].

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LOK SABHA

Wednesday, 1st December, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

12 NOON

PAPER LAID ON THE TABLE

NOTE ON SAHITYA AKADEMI AND ITS ACTIVITIES

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): I beg to lay on the Table a copy of the note on Sahitya Akademi and its activities, promised in the reply given to Starred Question No. 232, asked on the 22nd November, 1954. [*Placed in Library. See* No. S-453/54.]

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

PRESENTATION OF SIXTEENTH REPORT

Shri Altekar (North Satara): I beg to present the Sixteenth Report of the Committee on Private Members' Bills and Resolutions.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

SEARCH OF HOUSE OF A MEMBER OF INDIAN HIGH COMMISSION'S STAFF IN PAKISTAN

Shri Keshavaiengar (Bangalore North): Under rule 215, I beg to call the attention of the Prime Minister to the following matter of urgent public importance and I request that he may make a statement thereon:

> "Breach of diplomatic convention by the Pakistan Government in searching the house of a member of the Indian High Commission."

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): At about 7 A.M. on the 30th October 1954, a large police party raided No. 24, Islamabad, a building occupied by officials of the Indian High Commission in Karachi, without taking the permission of the High Commissioner or even informing him. The police then went to one of the rooms occupied by Shri Tewari, a clerk of the High Commissioner, woke him up and confined him in an adjoining bathroom. Other members of the staff residing in the building were also prevented from leaving their rooms and abused and threatened when they protested against this action. Some members of the raiding party even entered the rooms occupied by the wives of the staff and threatened to search them.

Having confined Shri Tewari in the bathroom, the police ransacked his room. The protests of the Deputy High Commissioner, who had since arrived on the spot, against the high-handed action of the Pakistani police were ignored by the Pakistani authorities in charge of the raid, who threatened to arrest Shri Tewari and take him away for interrogation.

The police party withdrew after over four hours, only after the Deputy High Commissioner had personally represented the matter to the Prime Minis

[Shri Jawaharlal Nehru]

ter of Pakistan and the latter had issued specific instructions to that effect.

After the raiding party left the building, Shri Tewari went through his personal effects and found that the police had taken away with them some of his clothing and other personal effects including service documents and two hundred rupees in Pakistani currency. No inventory was prepared by the Pakistani authorities and none was shown to any member of the High Commission including Shri Tewari who was all along confined in the bathroom.

The Indian High Commissioner protested to the Government of Pakistan against the high-handed action of the Pakistan police which is in complete violation not only of normal diplomatic usage but also of a specific Indo-Pakistan agreement granting diplomatic immunity on a reciprocal basis to all members of the staff of the High Commissions in the two countries. A protest has also been lodged against the unfounded and mischievous reports appearing in the Pakistan Press in this connection.

A reply has since been received from the Government of Pakistan alleging that one Mirza Samiullah Beg, a Pakistan national, who had been discharged from the Royal Pakistan Air Force on charges of espionage, was living in the room which was searched by the Pakistan authorities and that only Mr. Beg's belongings were taken away by them. This reply also denies the statements made by the Indian High Commission regarding the high-handed behaviour of the Pakistan authorities. The reply given by the Government of Pakistan does not correspond to facts. Neither Mr. Beg nor any other Pakistani national ever lived in Shri Tewari's room. There were also no articles belonging to any Pakistani national in that room. The matter is accordingly being pursued further with the Government of Pakistan.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—*contd.*

Clauses 26 to 38

Mr. Speaker: The House will now resume further discussion on clauses 26 to 38 of the Code of Criminal Procedure (Amendment) Bill, 1954. Of the 5 hours allotted to this group, 34 minutes have already been availed of yesterday and 4 hours and 26 minutes now remain. This would mean that the discussion on this group of clauses will conclude by about 4-30 P.M. when the clauses will be put to the vote of the House.

Thereafter, the House will take up consideration of the next group which consists of clauses 39 to 60, for which 3 hours have been allotted.

As regards the consideration of the amendments, in respect of which I reserved my ruling, I think I shall be able to give it by tomorrow.

Shri Sadhan Gupta (Calcutta—South-East): Yesterday I was trying to explain how the amendment of section 250 which was introduced by clause 34 is an amendment which confers undeserved powers on the Magistrates to award compensation. I said that even the Small Cause Court was not trusted with more than Rs. 1.000 even with civil experience. Here the Magistrate has been given the power to award Rs. 1,000 in a summary manner. We know that no poor complainant ever benefits from such a provision; it is only the poor complainant who is harassed and in view of such a provision no poor complainant could hope to earn Rs. 1,000 by way of compensation because it often happens that richer accused persons manage things in such a way that the police non-co-operate, the witnesses are won over and the case is made out to be frivolous and then that person who had put in a *bona fide* complaint will be made to pay through his nose and will be ruined in the process. Therefore, what we have suggested is the most reasonable thing. We have suggested that the amount should be only one-tenth of the amount of fine. If the power to impose fines will be raised to Rs. 2,000, the maximum power to award compensation will also be raised to Rs. 200. Beyond this compensation should be sought from Civil Courts and should be recovered from Civil Courts in accordance with the procedure provided in the civil law.

I now come to the blackest provisions in this group of clauses—the provisions in clauses 29 and 35 and the ancillary provisions to those clauses. these provisions are glaring examples of how the rights of the accused have been sacrificed to the whims of the executive. In the name of speed, so many of his rights have been curtailed; in the name of speed, he is asked to face trial with inadequate notice; in the names of speed, charges are framed on the basis of police statements and so many things. Speed is the excuse given to justify this gross curtailment of the rights of the accused. Obviously, the most speedy process would be if you provide that when a police constable or any police officer suspects that an accused is guilty of an offence under the Penal Code, he shall have the right to inflict the appropriate punishment, whether it is death or imprisonment. That would be the most speedy thing, but is that the kind of speed that we want? Do we want speed at the expense of the accused's rights of defence? Must we proceed on the basis that the accused, who has been brought up before the Court, must be guilty and all sorts of obstacles must be put in the way of his proving his innocence? That is the attitude taken and that is illustrated by a number of provisions to which I will come, but before I come to that, I want to smash this argument of speed to pieces. There is no doubt delay in criminal procedure, but what is the reason? Is it because of the commitment proceedings? Is it because of the warrant proceedings? Or do we have to seek for delays elsewhere? Is the procedure delayed because the accused gets a proper adjournment? Or, is the procedure delayed on account of some other cause? I think it is not very difficult to make out that the delay is not due to the present commitment or warrant procedure. It happened only the other day; a very gruesome murder in this city was committed and the commitment procedure ended in ten days. The case, I think, ended in two or three months' time. Dr. Katju says that he wants precisely this kind of speed. This happened in Delhi. Therefore, there is no reason why it cannot happen anywhere else. There is nothing particularly speedy in Delhi. There is nothing which makes for speed in Delhi or anywhere else. If there is anything, it is certainly not the procedure in commitment. It must be something else. We know what it is. The delay is not because witnesses are examined in the commitment procedure. The delay occurs not because the witnesses' cross-examination is postponed in a warrant case procedure. The delay does not occur because the adjournments are given when the accused has not had adequate notice and cannot find time to prepare his case. The delay occurs for very well-known reasons. Dr. Katju has referred very feelingly to the number of under-trials in the prisons. It is a standing scandal no doubt, but what is the reason for it? Is it because it takes time to take evidence in a warrant procedure or in a commitment procedure? He has not given us any figures. He has not given us any facts. He has not told us how many of these trials have been delayed after charge-sheet and how many of these trials have been delayed in investigations. So far as I know the greatest delays occur in investigations. I have had more than one case. I can give you a typical example. In one case, the investigation took about three years for a simple charge which, I think, was under section 332. A simple charge under section 332 took three years to investigate. It started with very grave charges under sections 302, 307 and 325 and all that, and the accused was confined for one or one and a half years. Then he was let on

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bail and then, after three years' time by the delaying tactics of the police, the trial lasted another one year, and finally resulted in a conviction of three months. Now, that is not an isolated picture. That is the general picture of the reason for delays in criminal cases. In the investigations, the police are out to harass certain persons; they would take time to get remand after remand during investigation, or make the accused go again and again to Court, so that he has to spend money through his nose. After a delayed investigation, either they produce a final report or produce a charge-sheet which does not hold water in Court. That is one source of delay.

The other source of delay is also very well-known. It is adjournment—adjournment against which the Home Minister has directed so many provisions, but the provisions are directed in the wrong line. The adjournments that make for delay are not adjournments obtained at the instance of the accused but adjournments obtained at the instance of the prosecution. What the police do is that they deliberately withhold the attendance of certain witnesses who are involved in that case. I know it is a practice in many mofussil courts that when the accused takes an eminent lawyer from outside and the police know that he cannot keep him beyond a day or two, the police so manage it that the witnesses—at least the important witnesses—who would not stand the cross-examination by the eminent lawyer are kept out of the way for one or two days till that lawyer goes away, and then the case is adjourned. When a case has to be adjourned due to the overcrowding on the file, the adjourned hearing inevitably falls about fifteen days or one month or sometimes months after the original date. That is one source of delay.

[MR. DEPUTY-SPEAKER *in the Chair*]

What is the other source? Apart from investigation, apart from obstructive adjournments, what is the other cause of delay? The other cause of delay is that the Judiciary has not been separated from the executive. Today, a Magistrate, in addition to carrying on criminal trials in criminal cases, is supposed to do all other executive acts—to attend to Ministers, to attend to all V.I.Ps, and to do treasury work and so forth, and the Magistrate naturally thinks that those are the more important items of work than the judicial work.

Mr. Deputy-Speaker. Has not the attendance on Ministers been referred to many times on the floor of this House?

Shri Sadhan Gupta: May be; I do not know.

Mr. Deputy-Speaker: Merely because it is now clause by clause stage, one need not go on saying all that has been already said. If there are any new arguments, they may be advanced.

Shri Sadhan Gupta: I am trying to put the argument as a whole. I am not dwelling at great length on it. That is one thing. Has the Home Minister, who professes to be a great champion of speedy trial, tried to remove the causes of delay? Has he tried to limit the time by which an investigation is to be carried on? Has he penalised any investigating officer who carries on delaying and harassing investigation, and goes on harassing the accused in order to delay the trial? He has not done it. Has he tried to penalise the prosecution which deliberately wthholds the examination of witnesses because it does not suit them? He has not tried to do it. He has made many provisions restricting the right to obtain the adjournments, but it has been invariably directed against the accused. No provision has been made by which the prosecution may be prevented from avoiding the production of all those witnesses that they are required to produce, so that they will have no further chance for asking for further adjournments. That provision has not been made. But when the accused might ask for an adjournment in order to prepare his case, that right has been grossly interfered with. What has been provided in both commitment and in warrant cases is that the accused will be furnished by some police officer with certain documents referred to in section 173. That is supposed to be adequate notice. That, as I shall show, is not adequate notice at all. Although he may not be able to prepare the case on that basis, although he may require some time after hearing the evidence, yet, he will not be able to obtain an adjournment or, it will be very difficult to obtain the adjournment. That is the provision made. This is the argument of speed which the hon. Home Minister has advanced, and this is the substance of his argument. In the name of speed, the accused, as I said, is asked to face the trial with inadequate notice of the case or at least with inadequate materials in hand. Apparently, the Home Minister seems to think that a document provided under section 173 is adequate notice, but what is the value of the police statements? In cases where the accuseds are not known to the persons taking the statement, the statement will not contain even an identification of the accused. So, how can a person, who has been told that say, a dacoity or a murder has taken place at such and such a place at such and such an hour of the night, possibly know what the charge against him is, from such a statement? How is he to know? It is nothing to the Home Minister that he will not know. But he is supposed on those materials to face a trial.

Again, the police statements often contain very inadequate details and many details may be suppressed. Yet, the accused will not have time to prepare his evidence on those materials. Even assuming that police statements recorded do give him some notice, yet, are we not aware that in a criminal trial there are other materials for which section 173 does not provide. What section 173 says is that the officer in charge of the police station will give to the accused person certain documents on which the prosecution relies. Now, what does that mean? He has to give to the accused only those documents which the prosecution apparently is going to exhibit in Court: otherwise it cannot be said that the prosecution relies on those documents. There are other documents which the prosecution does not rely upon in the sense that they do not produce them in the Court, they do not bring them on the records of the Court; yet the accused may rely on them—the accused often relies on them.

For example, let us take the instance of the report of an identification parade. What is usually done is that the Magistrate is asked when he comes to the witness box as to which witness identified which accused person and he gives his evidence refreshing his memory from the report. That report is not made an exhibit, but the accused makes use of that report in order to contradict certain witnesses who had made a wrong kind of identification before him. There is no obligation on the officer to give that. In the absence of that obligation, the notice becomes absolutely inadequate. The same can be said of a *post mortem* report or an injury report which are often not brought on the records of the Court but is used by the doctor who comes as a witness to refresh his memory. There is no obligation to give him that if the prosecution does not rely on it.

Again, in the name of speed a strange principle has been followed, namely, the statements made to police officers are made the basis of the charge. But it is the elementary principle of criminal jurisprudence that a charge should be based on a *prima facie* case and there can be no *prima facie* case before a Court unless witnesses have sworn to the facts which prove the *prima facie* case. Now, Sir, is the statement before a police officer which is obviously very unsatisfactorily recorded, which is obviously sometimes not the statement of the person at all, should they be the basis of a proceeding which will lead to interminable harassment of a citizen of the country? But that is the thing provided. Then, Sir, in the name of speed, even the

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commitment procedure is sought to be made a farce.

Now, Sir, in a commitment procedure it is provided that all the witnesses need not be examined: only the eye-witnesses need be examined. I do not know who put it into the hon. the Home Minister's head that an eye-witness is the most important witness in a criminal proceeding. It often happens that the eye-witnesses are interested witnesses and it is really the corroborating witnesses, those to whom the eye-witnesses immediately reported, may happen to be outside, who may happen to be strangers, it is often their evidence that is the deciding factor. Yet, it is not obligatory to take their evidence. The Magistrate may refuse to take them.

Now even as regards the eye-witnesses, there are certain very interesting procedures: even the eye-witnesses can be shut out if the police want. There is a provision under section 207A as it is proposed that no commitment proceeding should be adjourned merely on the ground of absence of witnesses. So, if the police say that such and such a witness is absent, because he is sick,—it may be that the Magistrate would be satisfied later on that he was not sick—but if the police say so, the Magistrate cannot adjourn the case. He has to continue it and how is he to continue it without the witnesses? Of course, he will proceed on the statements recorded by the police.

Shri Venkataraman (Tanjore): Mr. Deputy-Speaker: Sub-clause (17) dealing with the continuation of the trial in the absence of the accused or some of the witnesses is being deleted by amendment No. 550 of the Deputy Home Minister.

Shri Sadhan Gupta: I have not seen that amendment: I do not know whether the entire clause is being deleted.

Shri Venkataraman: Not the entire clause, but sub-clause (17).

Shri Sadhan Gupta: There are two elements in that clause: one is that no adjournment will take place on account of the absence of witnesses and second, there will not be more than one adjournment in any case. It may happen that the police may keep out witnesses not only on one day, but on two days. If the police succeed in doing it,....

Shri N. C. Chatterjee (Hooghly): Both the things are deleted.

Mr. Deputy-Speaker: The sub-clause reads:

> "Notwithstanding anything contained in this Code, an inquiry under this section shall not be postponed or adjourned merely by reason of the fact that any witness whose statement is to be recorded under sub-section (4) is absent or that any one or more of the accused is or are absent, unless the Magistrate, for reasons to be recorded, otherwise directs, and the inquiry shall not, in any case, be postponed or adjourned more than once."

Shri Sadhan Gupta: Mr. Venkataraman was expressing some doubt as to whether the whole caluse is being deleted.

Shri Venkataraman: Clause means clause No. 29: sub-clause (17) of it is being deleted.

Shri Sadhan Gupta: Very well, so far so good.

Mr. Deputy-Speaker: Whatever mercies are shown, the hon. Member must be thankful. A compliment is given occasionally. There must be a compliment paid occasionally at least.

Shri Sadhan Gupta: There has been a great brain-wave as regards cross-examination. First, the hon. Home Minister started with the absolute prohibition of cross-examinations in commitment proceedings and also prohibited the right to postpone cross-examination in warrant cases. So far, I think, in warrant cases he remains unchanged but in commitment cases, there is, what I may call, another brain-wave by which cross-examination will be allowed without of course making it obligatory to produce all witnesses. We know that, perhaps not far from this House, there dwelt an Emperor about 700 years ago who was notorious for his brain-waves. Mohammed Tughlak was his name and he had all kinds of brain waves. People had to suffer untold hardships due to them.

Mr. Deputy-Speaker: There is a difference of opinion regarding him. Some people say he was much in advance of his times......

Shri Sadhan Gupta: Perhaps. Let us expect that history will judge the Home Minister as much in advance of his times but as far as we are concerned, we consider that his brain-waves will make for an immense amount of trouble as Tughlak's brain-waves obviously did.

What is the effect of this new provision? The effect is that, if a witness is produced, he will be cross-examined. Let us say 'an eye witness' with the deletion of sub-clause 17. An eye-witness will always be cross-examined. But there is a proviso. If a statement is recorded under clause 164, he will not be cross-examined because he will not be examined. Then a witness, who is not an eye-witness but nevertheless may be a very material witness, will not necessarily be cross-examined. The point is that there is section 288 in the Criminal Procedure Code which enables the parties to make use of the evidence given at the commitment stage. It enable the party to put in such evidence when the accused has an opportunity to cross-examine the witness. In the commitment procedure as it stands at present, the accused has an opportunity to cross-examine every witness and therefore can, if he wishes, put in his evidence under 288.

Now, the prosecution also can do the same. In accordance with the procedure now provided, the accused can put in only some evidence and cannot put in others. The prosecution—of course that is not a very material point —will be able to put in some evidence but not others. As far as the accused is concerned, it is a very material point because the police will see to it that witnesses who are not very good students of their tutoring are not brought forward at the commitment stage. Witnesses who are not well enough prepared for the examination may not be produced at that stage, at the preliminary stage and may be reserved for the final examination and then the accused will be deprived of the possible discrepancy in their evidence that may take place. This is the position.

I said it was a brain-wave; I compared it with that of Tughlak but it is only a superficial comparison. What happens really? The motive behind it is very clear. It is that if cross-examinations were denied the accused will not be able to put in any of the statements nor would the prosecution be able to put in any of the statements at the time of trial. But if cross-examination is permitted, the witnesses favourable to the prosecution would be produced before a committing Magistrate and as regards others whose evidence may not be favourable to the accused and whom the police might think to be shaky, would not be produced at the commitment stage. The result will be that it is only the prosecution which will have the benefit of section 288 and the accused will in practice be denied the benefit.

In warrant cases cross-examination is curtailed in the name of harassment; in the commitment proceedings, it is curtailed in the name of speed. Admittedly, in commitment proceedings, cross-examinations, when they take place, are very slight and very small cross-examinations and therefore, they do not contribute to the delay in the commitment proceedings. Why deny this right of cross-examination to the accused? In the warrant procedure, it is denied in the name of harassment.

It is stated that witnesses today do not come to Court because they are afraid of coming twice or thrice for cross-examination. That is not at all the case. Why do witnesses avoid

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Courts today? Summons are sent to attend at 10-30. He waits up to 4 p.m. and the Magistrate informs him that the case cannot be taken up and asks him to come 20 days later, at 10-30 again. 20 days later he comes and again the same thing happens. He has to come 30 days later. That is the reason why people who have some work are scared away from Courts. If the person knew that within an hour or two or three hours of his attending the Court, he would be examined and then in another 15 days' time he would again be cross-examined and let alone, no witness would object to it and would come to the Court. Witnesses do not object because they have to face two examinations; they object because they go to Court uselessly without their being examined and are asked to come once again. That is the real reason why witnesses are scared away. So, I would ask the Home Minister to obviate that difficulty and not to take away the rights of the accused for preparing his case by cross-examination. After all, we know that in a criminal case, the evidence of the witnesses is interlinked and until the evidence of all the witnesses is before us it is impossible to frame the cross-examination in the light of the defence because how do you know which witness will say what after this witness? How can you get from a witness the refutation of what the subsequent witness will say? In a civil case there is the plain written statement......

Mr. Deputy-Speaker: I will allow half an hour to each hon. Member if the House agrees because the time is limited; within half an hour all points can be expressed.

Shri Sadhan Gupta: These are important points......

Mr. Deputy-Speaker: I have no objection to allow one hour to each hon. Member but in that case only three or four people will be able to participate. Therefore, half an hour will be a reasonable time. I am not going to hustle the hon. Member but they will have this in mind. I have given him already forty minutes. Anyhow, he can go on because I have not informed him in advance.

Shri Sadhan Gupta: That is what I have to say about the right to postpone cross examination in warrant cases.

To crown all, this Government which claims to be a national Government, asks us to translate every document in the vernacular into the English language when the case is to be committed to the High Court. Possibly, the language of us natives is too disgraceful for the High Court, and we have to translate it into English and send it to them. The excuse is the Constitution. I would have supposed that the Constitution enjoins rather than forbids the ousting of the English language. What the Constitution provides is that for the purposes of the Union, for 15 years, English should be the language. Even then, it provides that the President by order may do something different. If there is any bar in the Constitution, I would rather have supposed that to remove such an obnoxious bar the Constitution would be amended rather than this outmoded British provision should still be retained in the Code.

Another dangerous provision,—I will not dwell on it at length at this stage; I shall reserve my remarks for a future occasion—is the power to conduct the examination of the accused with a view to trap him. That is the provision of the amendments to section 209, which removes a very salutary condition of examination, namely, for the purpose of enabling the accused to explaining the circumstances appearing in the evidence against him. In section 207-A also, there is a similar clause where an examination is allowed on a rambling scale. Of course, I shall make my remarks when I come to clause 61. I have given several amendments on behalf of my party and the principle behind these amendments is to safeguard the right of the accused primarily and to check the supremacy of the executive in the administration of justice. We think that the present commitment procedure and warrant case procedure is on the whole satisfactory. The only improvement that needs to be made in the present commitment procedure is to widen the powers of discharge in Magistrates. What happens today is, the Magistrate may be sure, every party may be sure, that after the way the case has gone on in the Committing Court, there is no earthly chance of conviction in the Sessions Court. Simply because of the fact that the evidence may enable the Court to convict the accused, the commitment has to be made. If this provision was liberalised and the power to discharge was widened, many fruitless cases would not go to the Sessions Court and the Sessions Court would be saved the trouble of trying many worthless cases. We could not effect this improvement through an amendment. Therefore, we have sought to do our best. We have tried to make the two procedures as alike as possible, and to remove the provisions which are obnoxious to the rights of the accused. To enable the accused to prepare the case, we have provided for reasonable adjournments at the request of the accused if he has not been furnished with the statements that are required to be furnished under section 173 and in other proper cases. We have sought to remove the provision for entrapping by way of examination and confined it only to examination for the purpose of giving explanation. We have sought to guarantee the right to cross-examine and the right to postpone cross-examination in warrant cases.

As I said the other day, I must repeat that the initial steps towards fascism are being taken. We know we shall not prevent it from this House. But, I have confidence in the great people of my country who have fought back and worsted a far more potent tyrant than the present rulers can become. The present apostles of British tyranny......

Mr. Deputy-Speaker: The present persons who had no hand in it at all.

Shri Sadhan Gupta: They may have a hand in it. But, it is the people who had a major hand in it. Even if they had a hand in it, they have been now false to their old views and old ideals.

Anyhow, if the enormity of the evil that this Code embodies is clear to the people of this country, it will be an evil day to any one who seeks to let loose the law of the jungle by way of the provisions of the Code.

Shri Frank Anthony (Nominated—Anglo-Indians): I propose to confine my remarks to two main clauses, clauses 29 and 35. I have four amendments in respect of these.

My amendment No. 446 seeks to insert the following in section 207-A(3) that the copies should be furnished at least 7 clear days before the recording of the statement of any prosecution witness. I am hoping that the Home Minister will accept this amendment or some modification of it. My purpose is this. I have not been congratulatory towards the Home Minister. But, I think, by and large, this provision about furnishing copies to the accused of the various documents whether they have been recorded under section 173 or under section 164, is a good provision. But, my fear is this. This purpose which is a very salutary one may be stultified if, for instance, these copies are furnished to the accused one day before the evidence is to be recorded. We have a provision here which enables the Magistrate to examine only those witnesses who have actually seen the commission of the offence. There may not be a single eye witness. I shall come to that later. There may be only circumstantial evidence in the case which means that today I am furnished with all the documents and tomorrow the Magistrate begins technically to take up the prosecution witnesses. There is no eyewitness because the whole evidence in a murder case may be purely circumstantial. He may at half past ten o'clock call upon me to make my statement when I have received all the documents only the day before.

Shri N. C. Chatterjee: Or the same morning.

Shri Frank Anthony: That is why I say we should prescribe a minimum period between the taking of evidence and the furnishing of these documents. I feel that this is a matter which should receive the serious consideration of the hon. Home Minister.

I come to my next amendment which is 447 to the same clause. It seeks that the following be substituted for the present proposed section 207-A(4). My proposal reads as follows:

> "The Magistrate shall then proceed to record the statement of all persons whom the prosecution intend to rely upon as their witnesses, provided that no statement shall be recorded under this sub-section of any person whose statement has already been recorded under section 164."

The purpose of this amendment of mine is to restore the procedure in the present section 208, and I believe that this is an amendment which seeks to maintain a very definite purpose. And what is that purpose, and what is the principle implicit in the present section 208 of the Criminal Procedure Code? At present, as the Home Minister knows, under section 208 of the Criminal Procedure Code, the prosecution must produce all those witnesses whom it considers necessary to establish the prosecution case. I think, and I know, the balance of judicial opinion is in favour of the dictum that it is not necessary under section 208 for the prosecution to produce all its witnesses; but judicial opinion definitely does enjoin this that all the witnesses whom the prosecution considers necessary to establishing their case must be produced and examined under section 208.

The Minister of Home Affairs and States (Dr. Katju): Before framing a charge? My experience is that experienced Magistrates only examine one or two witnesses and then straightaway frame a charge.

Mr. Deputy-Speaker: That is in the warrant cases.

Dr. Katju: I respectfully submit that they are permitted to do so.

Shri Frank Anthony: I respectfully beg to differ from the Home Minister.

Dr. Katju: I am only talking of the language of section 208.

Shri Frank Anthony: The language does vest a discretion in him.

Dr. Katju: In the Uttar Pradesh, that discretion is very often exercised.

Shri Frank Anthony: But it is a discretion which has to be carefully and judicially exercised.

Mr. Deputy-Speaker: Section 208 refers to committal proceedings. He is referring to warrant cases.

Dr. Katju: I am talking of the warrant case.

Shri Frank Anthony: I am dealing with section 207A in clause 29 of the Bill.

Mr. Deputy-Speaker: He is referring to warrant cases. Section 208 refers to committal proceedings.

Shri Frank Anthony: I think his contention was that even in committal proceedings, the Magistrate may examine one or two witnesses and commit the man.

Mr. Deputy-Speaker: He has not said so.

Dr. Katju: I never said that.

Shri Frank Anthony: Then he concedes my position.

Dr. Katju: I do not concede your position, because I do not understand it.

Shri Frank Anthony: I will try and make myself a little more intelligible. Under section 208, the position is this. that the prosecution in practice under legal compunction is required to produce all the witnesses in the committing Court, whom it considers necessary to the establishing of the prosecution case.

Dr. Katju: Is my hon. friend in favour of shortening the committal proceedings or not? If his view is that the committal proceedings should remain as they are today, then, of course, that is a different matter altogether.

Shri Frank Anthony: I am in favour of shortening the procedure, but I am not in favour of shortening it to the extent of shortening the neck and life of the accused.

Dr. Katju: Please let me know how.

Shri Frank Anthony: I shall proceed logically, but at this particular stage, I am not prepared to shorten it to this extent.

The principle that underlies section 208 is that the prosecution must examine all the witnesses necessary to prove its case. It does not mean that witnesses of a repetitive character should all be examined; it does not mean that if there are eight eye-witnesses, then all the eight must be examined. That is the position even now. But what I have sought to make necessary is this. I have sought, as I said earlier, to maintain the present procedure and practice in section 208. I am seeking to insist that the Magistrate shall record the statements of all those persons whom the prosecution intend to rely upon. What is the reason? The reason is this. Of course, the Home Minister would say, the accused has before him the statement under section 164, and also the case diary. But what is the principle underlying section 208? It is this, that the accused shall have before him in Court on oath the basis of the prosecution case, that he shall not be taken by surprise, and that he shall not be prejudiced by enabling the prosecution, if they want, to patch up their case in the committing Court.

Shri Raghubir Sahai (Etah Distt.—North East *cum* Budaun Distt.—East): You mean to say that the evidence of all the formal witnesses should also be recorded in the committing Magistrate's Court?

Shri S. V. Ramaswamy (Salem): Yes. It must be.

Shri Frank Anthony: In the sense that it is not necessary that a formal witness as such even under the present section 208 shall be examined. But it is necessary that all important witnesses necessary to the proper evolution of the prosecution case should be examined under section 208. To-day, the Courts raise an adverse inference, if the prosecution do not examine important witnesses necessary to the unfolding and the establishing of the prosecution case. I say that the principle involved is a very real one. If we jettison this procedure, then we will be abandoning a vital principle, namely that in Court the accused must be given notice, as far as possible, of the full prosecution case. There is no point in the Home Minister saying that I have the case diary before me. What is the case diary? Does the case diary give me notice? Of course, it does not. In this amendment, I have made a concession also. I am only saying that those witnesses should be examined, who have not been examined under section 164; if they have already been examined on oath, then it is not necessary to examine them. But I say that all the other important witnesses should be examined before the committing Court. Why? It is because the case diary, in many instances, gives me no notice of the case. I do not know whether the Deputy Home Minister has had notice given by case diaries, in actual experience. What happens in the original Courts? What happens in murder cases? One witness comes and makes a statement. Even that is an abbreviated statement. The other witness comes and says:

"उस शख्स का बयान ताईद करता"

That is all I am confronted with, namely that so and so corroborates the statement of somebody else. What notice have I got of the actual case or of what the witness proposes to say or

[Shri Frank Anthony]

of what is likely to be said against me? That is the greatest objection. What objection can you have to what I am suggesting? I am not asking that later on I should be given the right to cross-examine. I am only asking that this fundamental principle should not be taken away from it. I am only asking for this fundamental right, at any rate, that when I come to Court, all the necessary and important prosecution witnesses may be examined in the committing Court—I am not saying that all the witnesses should be examined, but I am suggesting that only those important witnesses other than those who have already been examined under section 164, should be examined. That is the whole purpose of my amendment. What delay will that result in? If ten or fifteen witnesses are there, and five of them have already been examined under section 164, you merely examine the others. At the least, I want the base, the fabric, or the basic pattern of the prosecution case to be disclosed to me. You do not want to do even that.

My objection to it is this too. Unless this is done, you will get this very peculiar position which we are seeking to introduce in this particular clause, namely that only witnesses to the actual commission of the offence will be examined. I do not understand that. What notice of the case have I got before me? There is no witness to the actual commission of a murder; there is only circumstantial evidence that I was last seen in company with the deceased person, that—as in the Punjab and other cases—I discovered the instrument of murder. That is the only evidence against me, namely that I was last seen in the company of the deceased, that I discovered the hatchet with which the person has been killed, that I discovered the blood-stained weapons, or the blood-stained jewellery or clothing, etc. There is no eye-witness at all. So, no case is to be disclosed to me in the committing Court. I will say your provision is not only untenable, but fantastic. I just do not understand it. That other day, I was appearing in a case in which even the Chief Justice said that circumstantial evidence was absolutely sufficient for the man to be hung. There was no eye-witness; he was only discovered with the weapon, and the fact that he was last seen in the company of the deceased was quite enough to hang him, but not enough to disclose the evidence to me. I just do not understand it. I am sorry that the Home Minister is not here, but I hope the Deputy Home Minister will attempt to appreciate the point I am trying to make. What is the point of this new provision? Only winesses to the actual commission. In many cases, not only in murder cases......

1 P.M.

Pandit Thakur Das Bhargava (Gurgaon): Other witnesses will also be examined.

Shri Frank Anthony: They can be examined. Why should there be a discretion? I say it is my right that the case on which I am going to be hanged should at least be made known to me on oath. I am not saying that all the witnesses should be examined. I am even conceding that those who have already been examined on oath under section 164 need not be examined a second time.

Pandit Thakur Das Bhargava: You are wrongly conceding that.

Shri Frank Anthony: I am in a mood to make concessions. But here I say I will not go beyond this line. I do not concede that so far as other important witnesses are concerned, witnesses on whose evidence I can be hanged, they should not be examined. My demand is I want that they should be examined. My demand is not an unreasonable one.

[SHRI PATASKAR *in the Chair*]

The Home Minister has asked: do I want to save time? Is my amendment going to waste time? Let us come down to brasstacks. I am not asking about unusual cases. What happens in an average murder case? I know in many cases you may have 20, 30 or 40 witnesses. But in an average murder case, do you have more than 6 or 7 material witnesses? I say on an average in a murder case, there are not more than 6 or 7 material witnesses. What time are you going to save by saying 'we won't examine 5; we will examine only 2'? All those 7 witnesses can be examined in chief in one day. Are you going to save time at the expense of neutralising, stultifying fundamental principles, at the expense of taking away a valuable right of the accused? We are not only dealing here with the question of speed; we are dealing here with certain fundamental principles of criminal jurisprudence. Apparently, we are all on common ground in this, that we are wanting to see that justice, as far as humanly possible, prevails—I presume that we are on common ground there. Do not in the name of speed, therefore, withdraw this very real right which the accused had up to now. My friend here says that I have made an undue concession. But I am prepared to make that concession. But I make this minimum request, that the prosecution witnesses, the necessary prosecution witnesses, who have not already been examined under section 164 must be examined before the committing Court.

Pandit Thakur Das Bhargava: Suppose they are all examined under section 164, what would happen?

Shri N. C. Chatterjee: They can completely make the section nugatory by examining all the important witnesses.

Shri Frank Anthony: At least there I will have made known to me on oath what the prosecution case is. My objection to this provision not to examine persons other than those who are eyewitnesses may mean that I have no notice of the prosecution case because the only notice that I may have will be contained in the case diary where three or four statements are telescoped into one, and even that statement may be, as I said, in a completely abbreviated form. I want notice of the case and if it is given to me even under section 164 on oath, then I shall be satisfied.

Pandit Thakur Das Bhargava: Even then, it may become absolutely exculpatory. The whole case collapses. You have not got the advantage......

Shri N. C. Chatterjee: You cannot get a discharge straightway. You cannot say 'kindly consider and give me a discharge straightway'.

Shri Frank Anthony: That is a different matter. I appreciate the point of view put to me by my hon. friend, Pandit Thakur Das Bhargava. It may mean that the proceedings, as far as the accused is concerned, will be protracted and he cannot get discharged. But at any rate, I will be in this position that I know that a certain case has been postulated on oath, and the prosecution cannot patch up the case, they cannot fabricate, and they cannot pervert the case against me. It is important that I should not be taken by surprise, and no opportunity should be given to the prosecution to patch up their case. If I am acquitted or discharged in the committal Court or if I am committed to Sessions—that, to my mind, is not a very crucial matter, provided I am acquitted if the statements even under section 164 are of an exculpatory nature.

My next amendment is No. 453. It asks that in sub-clause (6) of clause 29 the words "and has, if necessary, examined the accused" be deleted. I am particularly anxious that the House should give its considered attention to this particular amendment of mine. I say that even if the Home Minister is prepared to accept my previous amendment, even if he is prepared to insist, as at present, that all the necessary prosecution witnesses who have not been examined under section 164 shall be examined by the committing Magistrate even if that concession is made, this amendment of mine which says that the accused should not be examined should be accepted.

Shri Venkataraman: In order to cut short this argument, may I draw the

[Shri Venkataraman]

attention of the hon. Member to the amendments moved by Shri Datar? That restores the right of cross-examination. They are amendments Nos. 545 to 550. Amendment No. 545 reads:

> "The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also..."

Shri Frank Anthony: Then the examination of the accused......

Shri Venkataraman: Evidence would mean examination in chief, cross-examination and re-examination.

Shri Frank Anthony: Under this present clause?

Shri Venkataraman: Also kindly see amendment No. 546.

> "The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them".

Shri Frank Anthony: I have not understood my friend. The point I am trying to make is this, that the accused should not be liable to be examined at all in the committing Court. That is the purpose of my amendment.

Shri N. C. Chatterjee: I think there is some misapprehension......

Shri Frank Anthony: The words to be omitted are "and has, if necessary, examined the accused". These are the words that my amendment seeks to delete. I do not want to be examined at all in the committing Court, and my reasons are two-fold. I say that if the Home Minister concedes my request —and that is that all the necessary prosecution witnesses are examined in the committing Court—even then, the accused should not be liable to be examined. I do not want it—whether it is mandatory or whether it is within the discretion of the Magistrate. I do not want it and I say that my request is well taken. I say that it is wrong, and it is more wrong when you do not examine all the prosecution witnesses. to make me liable to disclose my defence. Even if you examine all the prosecution witnesses, then I say it is a travesty of recognised criminal procedure and jurisprudence that I should be called upon to disclose my defence until at least I had the right to cross-examine. I am not saying, you are taking away my right. I say, 'all right; if you are in such a tremendous hurry, you carry on'. I do not know where we are going to carry this country in this tremendous hurry.

Mr. Chairman: Which amendment is the hon. Member referring to?

Shri Frank Anthony: Amendment No. 453 in list No. 16. I say that even if all the prosecution witnesses are to be examined—as I am asking that they should be examined—even then the accused shall not be liable to be examined. You save time. I do not want to be discharged unless the prosecution case fails, and I am not going to be discharged on my statement. So, if you want to save time, I am giving this concession to your sense of speed. I say, at least meet me half way in showing a reasonable sense of justice. Why am I asking that the accused shall not be examined until the prosecution witnesses are examined? How can he tell you anything when he is raising the plea of self-defence in a murder case? You ask him: "What is your defence?" and he says: "I am not guilty". Then you go on to examine him at large. I am not going to make any specific plea before having cross-examined the prosecution witnesses trying to extract from them the fact that they were the aggressors; trying to extract from the medical witness the fact that the injuries on my person were made either by a *lathi* or a sharp-edged weapon. Before I am asked to disclose my defence I must at least have the opportunity to pin down the prosecution witnesses in terms of my defence. Is it not an elementary right? If this is carried through in the face of the present truncated examination, then I say, it is not only reactionary, it is something which is a monstrous perversion of the fundamental principle of criminal jurisprudence.

Shri Raghubir Sahai: Is there any change from the present procedure?

Shri Frank Anthony: My friends have not at all understood me or they do not understand the present procedure. I am sorry for my friend's lack of understanding, or perhaps I have not been able to make myself clear. He is trying to make it appear as if I am opposed to any change. I say: "Take away my right of cross-examination." I am giving up another right: "I do not want to be examined". I am taking it on a rational basis and on a basis well-founded in criminal jurisprudence. I only want that I should not be examined. Is that asking too much? How can I disclose my defence unless I can cross-examine the prosecution witnesses? It may be allright for an official who has never conducted even a simple hurt case, for an allegedly eminent lawyer who has never conducted a sessions case to talk *in vacuo* or for arrant ignoramuses to take that course. Who will allow his clients to make defence unless he has been able to pin down the prosecution in terms of defence? The Home Minister —he is not here—says that the average lawyer in a murder case reserves his defence. I do not know whether the Home Minister did like that, but the law has changed since he used to practice. Today if the defence is reserved in a murder case, in the High Courts where I have practised, adverse inferences are raised in every case. It was always asked, and asked to the acceptance of the Judges of the High Court, why the accused, when he had an opportunity in the committing Court did not disclose his defence. Then adverse inferences are raised against him, not only at that time but also at the back of the accused. I was amazed when the Home Minister said this. It has never been the practice to reserve defence in a committal Court. What I say is: now you are taking the plea of speed. All right, if your police is a *bona fide* one, I am making this concession. You do away with my examination. But, is it your purpose to pin me down? Is it your purpose to give sanctions to the prosecution? If that is your purpose, then you examine me and pin me down before the prosecution has disclosed itself. That is something utterly objectionable. After all, by this provision, what am I asking the Deputy Minister to do? I do not want this right of cross-examination. Do not force it on me for God's sake. I do not want it. It is not a right, it is a liability. It will lead me to the gallows. You have your truncated procedure if you like. Do not examine me. Examine me after I have a right to cross-examine the prosecution witnesses in the Sessions Court. Am I asking too much? Unless the Government today insists on making this a 'Police Bill', insists that I should be on the rail-road to the gallows, then I say, you cannot examine me. You want speed and for that I am making this concession. Do away with my right of cross-examination. I am only asking you on the basis of elementary justice, on the basis of elementary fair-play, not to insist on my disclosing my defence before you have given me an opportunity of cross-examining in terms of my defence. What will happen today? You examine one eye-witness and you will ask me to make my statement. What will happen in the Sessions Court, I know. My whole defence will be forestalled there because every witness will be tutored and coached to forestall my defence and if I do not make my defence statement then you raise adverse inferences saying: "You had an opportunity of stating your case in the committing Court; you did not do it". Whatever course you want to adopt, you may adopt and hang me, take away my right of cross-examination. I only want that you examine me after

[Shri Frank Anthony]

I have cross-examined in the Sessions Court. I am asking that with all the earnestness at my command. I am not here giving any concessions to legal practice. I am only asking for an elementary principle to be recognised even at this late stage.

My next amendment is number 455. I was not very happy about this because I do not know how evidence could be recorded in the absence of the accused.

Shri Sinhasan Singh (Gorakhpur Distt.—South): There is already an amendment by the Government to this clause.

Shri Frank Anthony: That is why I am not pressing this amendment.

[SARDAR HUKAM SINGH *in the Chair*]

Sir, I now come to clause 31. May I say this in passing that here again I would ask that this proposed amendment may not be carried through? There was a very real reason behind the original provision. The present provision in section 342 is that the accused person should only be examined in respect of certain evidence appearing against him. There is a definite principle involved, and that is that the examination of the accused should never be taken on the nature of cross-examination and that it should never be of an inquisitorial character. If we take away these particular words as is being sought to be done, it means that the examination of the accused can be at large. There will be nothing to fetter the discretion of an examining Court and it may take on the nature of cross-examination. He may be examined with respect to a sort of lacunae in a prosecution case. He may be examined in such a way as to patch up the prosecution case and I believe there is a consensus of opposition to this, not only from this side, but also from lawyers in the Congress benches who have actual experience of the original course.

Now I come to clause 35. I have four amendments under this clause. This is with regard to the procedure in warrant cases on a police report. My first amendment is number 457. By this I want that the words:

> "and making such examination, if any, of the accused as the Magistrate thinks necessary"

be deleted. This is more or less on a par with my amendment to clause 3 in 207-A. Here again, if the procedure is to be shortened in the name of speed, I say: "All right, shorten it". But, I have asked that the accused should not be examined. He should not be liable to examination unless he has had the opportunity to cross-examine the prosecution witnesses. That is why, in the next amendment, in clause 8, I have proposed that his examination should take place after the cross-examination of the prosecution witnesses. Here again, I believe that my request is a reasonable one. I am only to be examined once and I am requesting that I should be examined in a warrant case after the cross-examination has been made, so that at any rate I will be able to extract the defence, I may put my plea to the prosecution witnesses, I may examine them in detail in terms of my proposed defence and then give my defence when I am in a position to make it. I am hoping that this amendment of mine will also be accepted.

Shri N. S. Jain (Bijnor Distt.—South): Never.

Pandit Thakur Das Bhargava: Hoping against hop..

Shri Frank Anthony: In my amendment No. 458, I have said in sub-clause (8), "Upon taking all the evidence referred to in sub-section (7) and making such examination, if any, of the accused, as the Magistrate thinks necessary, the accused shall then be called upon to enter upon his defence......"

I have heard a sort of ejaculation from the other side 'Never'. If the approach to this is going to be rigid and obstinate or a party or executive one, then God help this country. We are purporting to frame some principles of justice for our people and when I ask for an ordinary reasonable procedure which is in consonance with the juridical practice in civilised countries, they say 'Never'. That means we have no juridical practice and in fact we have no civilised conscience. The people who can say 'Never' have not the right even to make a claim to being ordinary civilised people in government.

Pandit Thakur Das Bhargava: Have we no right to disagree with you? You are proposing to change the entire section 342 and you do not realise that, and yet you say we are rigid. You have no right to say that.

Shri Frank Anthony: My hon. friend agrees with me, but yet he agrees with his Party.

Shri U. M. Trivedi (Chittor): I agree with you in the principle, but the difficulty of law is there.

Mr. Chairman: This type of conversation should not take place and if any hon. Member wishes to speak, he should get the Chair's permission.

Shri Frank Anthony: I am being interrupted like this, but I shall finish in five minutes. I have made this request not light-heartedly or irresponsibly. I have made the request that my examination should take place after I have had the opportunity of cross-examination. My hon. friend Pandit Thakur Das Bhargava, I am glad to see, in an undertone agrees with me.

In my amendments Nos. 459 and 460, I have requested that in clause (9), the words "on his behalf (other than a witness already examined)" should go, and after the words "for the purpose of examination" the words "or cross-examination" be added. I have given these amendments in order to make the law—at least this provision —a little intelligible. What are we seeking to do in these new proposals? We are going to give the accused only one right to cross-examine. The present procedure, we know, is that he has usually a right to cross-examine before charge, and at any rate he has a real right to cross-examine after charge, and that under section 257, the Magistrate has been given the discretion and he may allow him to cross-examine even then. But what are we doing new? Under the present clause 9—my own reading is this—after the accused has cross-examined, he has only one right and even the Magistrate has no discretion even if the Magistrate wants to recall certain of his witnesses for further cross-examination. I just do not understand this. I only have one right. Today I have a right to cross-examine. Because of that first cross-examination I have the full picture before me. Then I know exactly what I need for the purpose of the second cross-examination and I know which witnesses I want and what cross-examination is likely to be. We know today that it is impossible virtually to exhaust the cross-examination in one and only one process of examination. Today you say 'No'. The lawyers are such infallible people and they are such ingenious people that they will be able to cross-examine fully and do full justice to the accused in this only one process of cross-examination! You are taking away one after another the rights of the accused. You take it away; I understand the mode or approach of the Government, but I say "You take away my second right of cross-examination but you are also doing away with the discretion of the Court. You do not trust me, you do not trust the lawyers, you do not even trust the Court, but you only trust the police." I say that you do not trust even the Magistrate......

Shri U. M. Trivedi: Is he addressing the Chair?

Shri Frank Anthony: I am saying this through you to the Government. You do not trust even the Magistrate, but look at the preposterous and incongruous position that arises. The last witness comes in the witness box. I may in cross-examination extract from him that the first witness did not say this or the first witness said

[Shri Frank Anthony]

this or that and so on and there is no provision made for me to recall, even with the discretion of the Magistrate, the first witness for cross-examination. This provision is a fantastic nonsense. Anything more absurd, puerile and childish you can never conceive. You do not even allow the Magistrate the discretion to recall that witness. The last witness appears and says something and it has a vital bearing on what is said by a witness who appeared earlier—first or middle. Now I cannot cross-examine him. You do away with my second right, but at least give that right to a reasonable Magistrate, who is not completely bereft of knowledge, and do not divest him of that right. I do not understand how we are holding ourselves out to the country as responsible framers of a system of criminal jurisprudence. We are not even allowing this discretion to the Magistrate. That is the whole problem. I may have spoken strongly because I feel strongly, but in this matter there is no question of this party or that party and I am only asking in this particular matter to face the realities and what actually happens. How can we provide for every contingency? How can we exhaust every necessary piece of cross-examination? Today you are taking away all the rights which normally were insisted upon and which in fact the Britishers gave to this country. You in your larger wisdom feel that you should take them away, but at least give the discretion to the Court. If the Court feels that it should call a witness for the purpose of examination, it should have the discretion to do so.

Shri R. D. Misra (Bulandshahr Distt.): Sir, I had great hopes that this Criminal Procedure Code will be amended and it will be simplified, but we could not succeed. We attempted in the beginning by giving instructions to the joint Committee to go through the whole of Criminal Procedure Code but they could not find time to do it. This time too we tried, but failed. I had given my propsals for the consideration of the Government and those proposals are printed in Supplement D on pages 113 to 162. I had suggested to the Government that we must simplify our procedure. We have now different types of procedure at present—summons procedure, warrant procedure, summary procedure, commitment procedure and so on. For the trial of an accused person, there must be one simple procedure. Now, we are dealing with commitment proceedings. These are serious offences which are triable by Courts of Session. In these cases, the Magistrates make preliminary enquiries and thereafter commit the cases to sessions. Experience has shown that these proceedings are now worthless.

An Hon. Member: Question.

Shri R. D. Misra: The Magistrates do not exercise their right of discharge because the High Courts have held that the Magistrates have got no authority to discharge the accused persons even when they find that there is no *prima facie* case. They can not give any sort of benefit of doubt, they must commit the case to the sessions. This is not only my opinion, but it is the opinion of the highest judiciary in India. You may read it. This is the opinion of Justice Mehr Chand Mahajan, the Chief Justice of India. It is published at page 318 of Supplement C of the opinions. He says:

> "Commitment proceedings at one time, when conducted according to the Code, performed a very useful function, both from the point of view of the accused as well as from the point of view of the prosecution and they were a safeguard against unnecessary criminal trials in the courts. But unfortunately, owing to a number of decisions given by the High Courts, that the magistrate's duty is to commit the accused to the sessions and not to discharge them, the utility of these proceedings has considerably been affected. The provision of the Code which gives the magistrate full

power to discharge an accused person when he is satisfied that there is no *prima facie* case against him, has become a dead letter."

There is another opinion from the same Supreme Court. It is the opinion of Justice S. R. Das. It is printed at page 334 of this volume C. He says:

> "Nevertheless it has to be admitted at the present time, the committal proceedings involve more often than not, a useless waste of time, for the committing magistrates have become a mere post office or a mechanical conduct pipe through which a prosecution reaches the Sessions Court. For this state of things the High Courts are to a very large extent responsible, for according to some of the decisions, the committing magistrates are enjoined to commit the accused to the Sessions if there be "a scintilla" of evidence on the record. If the High Court allows the committing magistrate to exercise their proper discretion and does not interfere too much with the decisions of the committing magistrates under sections 209 and 213(2) of the Criminal Procedure Code, then committal proceedings may work quite satisfactorily. Before doing away with this important safeguard, an attempt should be made to remove the effect of the High Court decisions on the lines referred above."

Shri S. V. Ramaswamy: From what State does that case come?

Shri R. D. Misra: This is the reply of those two Judges to the letter circulated to them by the Government of India. They gave their opinion and they have expressed in black and white terms what should be done in this regard. But I am sorry to find that the Government of India has given no weight to the opinion of these Supreme Court Judges, to the opinion of the High Court Judges, to the opinion of the State Governments, to the opinion of the highest and distinguished jurists of India and to the representations which were made to them. They have never cared to read them. I have tabled my amendments, but nobody cares to read my amendments. Nobody cared to read my representation.

Pandit Thakur Das Bhargava: It is quite wrong. I have read every one of them.

Shri R. D. Misra: You might have read. I do not mean the Members of Parliament. I mean the Secretariat—the Secretariat of the Home Ministry whose responsibility is to advise the Minister that such and such proposals have been made by such and such persons, that they are nice ones. But they do not care. They only advise according to their light, and say go and argue in Parliament according to our lights.

Mr. Chairman: The hon. Member may be of the opinion that his amendment was very nice and that notice might have been taken of it. But opinions may differ.

Shri R. D. Misra: All right, Sir.

Pandit K. C. Sharma (Meerut Distt.—South): That is his misfortune.

Shri R. D. Misra: It might have been studied by the Home Ministry, but my impression has been that they care little. Nobody has regard for these legislators. They—the Government—have their own opinion about themselves. They think they are experts and masters of their own jobs.

The Deputy Minister of Home Affairs (Shri Datar): We have the highest opinion.

Shri R. D. Misra: Thank you. You were all fellow-travellers with us. I find that after these representations which were made on the Criminal Procedure, the Code of Criminal Procedure (Amendment) Bill, was sent to the Judges for opinion and the Judges replied to the Government's letter. That reply is also published in one of these volumes. There, the Supreme Court Judges only wrote that they do not want

[Shri R. D. Misra]

to give any opinion. Why? The Supreme Court Judges did not like to give their opinion on your Criminal Procedure Code, and they gave a reply to your original letter only which was sent to them earlier. They considered that it would be a waste of time. They gave their opinion on the elaborate letter of Dr. Katju, the Home Minister. They gave their opinion in detail, but when they found that at the time of enacting this Bill, their views were not taken into consideration, they thought that it is simply a waste of time to give their opinion. They will decide the matters when they come before them, as Judges. Then they will declare that this section is illegal, *ultra vires*, void. You are framing this clause 29 to amend section 207 of the principal Act regarding commitment procedure. You have half-way admitted that these proceedings should be dropped. But you have really kept the proceedings alive. For the complaint cases, the procedure laid down in Chapter XVIII of the Criminal Procedure Code should be followed, while, if the case is prosecuted by the police, this new procedure of Dr. Katju is to be followed. Up to this time, we had only one commitment proceedings. Now we will have two different cnes. Up to this time, we had a simple procedure. Now, we will have not only a compound procedure, but a complex procedure.

Shri U. M. Trivedi: Complicated.

Shri R. D. Misra: Complex means complicated. It has been further complicated. It is a complication. Now, we will have a complex procedure of commitments. Why are you having these two sorts?. If I report in the *thana* that such and such murder has been committed, and if I find that the police officer is not enquiring into it properly, he is not prosecuting the accused, I go and file a complaint. If I file a complaint, then Government has got no expenditure to do at all. I will have to engage a counsel, I must produce the witness, give evidence, etc. Thereafter if the Magistrate comes to the conclusion that the case has been made out, that the accused should be called upon to explain and issues process, then too, further proceedings have to be undergone under Chapter XVIII. All the witnesses have to go again and depose before the Court. Thereafter the accused will be committed to the Sessions, and then again the witnesses will be called for a third time in the Sessions Court. Why? Is it not the case of murder? But it is case in which a policeman is won over by a party. If prosecution is launched by police, only the papers will be given to the accused. There is no right of cross-examination. All witnesses will be examined behind their back, because, they will be examined under section 164. The proviso says that no statement shall be recorded of any person whose statement has been recorded under Section 164. The accused shall have a right of cross-examination. It means nothing because, witnesses examined under section 164 shall not be produced. So, not a single witness will be produced. All witnesses will be examined under section 164. If some foolish police officer does not produce any witness who has actually seen the offence for examination under section 164 then that witness may be produced before the Magistrate. If any foolish lawyer cross-examines such single witness he will lose his case in the Sessions Court, because the prosecution will know the line of defence. Anybody who knows criminal law, as practised in a criminal court knows that we have to prove the innocence of the accused in the case not by the defence but from the prosecution. The case is proved by the prosecution and through the prosecution the defence is to decide his case. The actual fact comes out of the mouths of the prosecution. After hearing the examination, whether it is true or false, the accused establishes his own case through cross-examination and thereafter gives his own defence. If there is some lacuna in the prosecution, they produce the defence witness; otherwise not. In a large number of cases no witness is produced by the defence.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

My submission is what for are you keeping these two types of procedure? Article 14 of the Constitution says that all shall be equal before the law. Why should there be any discrimination. For the same crime, the Police is governed by section 207A. But if it is a private complaint he will have to undergo all the ordeals. Why should there be difference in treatment? If an accused is prosecuted by the police, then he will have no right of cross-examination under commitment proceedings. He will go direct to the Sessions. But if he is prosecuted by a private complainant, then he will have three rights, four rights. Why should there be harassment to the accused as well as harassment to the complainant? We must have a simple procedure?

If you want to keep the committal proceedings, please keep them in the form you have laid down in section 207A and apply it to both complaints as well as to the police cases. Further, in sessions case, there is one section of the Indian Penal Code that is worth mentioning; it is section 218. That is, if a public officer frames a false record then he can be prosecuted under section 218. Generally *patwaris* are prosecuted under that section. That offence is non-cognizable: the police cannot make an enquiry. At the same time, that offence is triable by a Court of Session. In that case, a person whose posession has been wrongly written by a *patwari* has to file a complaint under section 218. The Magistrate will take evidence whether the *patwari* has committed such offence or not, and satisfy himself. If after taking all the documentary and oral evidence, the Magistrate comes to the decision that the *patwari* has committed that offence, then he issues summons or warrant as the case may be for the trial of the case. The case will come and then again the proceedings under Chapter XVIII will be conducted. Thereafter the *patwari* will be committed to sessions. It is only punishable with three years imprisonment. Here the law forces a man to file a complaint of a case which is triable exclusively by sessions. In such cases, I submit that we must have a similar procedure for both kinds of cases.

There will be a further complication. There is section 159 of the Criminal Procedure Code. If a police officer does not make an enquiry in a criminal case and reports to the Magistrate that the case is not proper for investigation the Magistrate has got an authority to enquire into the case himself or appoint any other Magistrate to investigate the case. In that case what will the Magistrate do? If the Magistrate thinks that the offence has been committed and that is triable by sessions, what procedure will be followed in that case, according to your section 207A or Chapter XVIII? Then again we have sections 346 and 347 of the Code. There if the Magistrate thinks that the case should be tried by a superior Court, by a Sessions Court, what procedure shall be followed in that case? My submission is that there are so many complications. If the Magistrate considers at a certain stage that the case should be committed to Sessions under section 346 or 347,......

Mr. Chairman: Also 478......what procedure will be followed.

Shri R. D. Misra: Yes, also 478... what procedure will be followed in such cases. My submission is that the same procedure should be followed

[Shri R. D. Misra]

in all cases. If the case is to be committed, comit the case in a simple way: give all the papers which are required to the accused to inform the case against him. For this purpose I have tabled my amendment No. 477.

As regards summary cases and summons cases, I have tabled an amendment No. 113. Petty offences and technical offences under section 34 and also against local laws, are punishable with imprisonment of less than six months. They are generally tried by Third Class Magistrates and Second Class Magistrates. There, the witnesses and the accused have to go to Court day after day. Their cases are not taken; they are harassed. In such petty cases generally the accused pleads guilty and the Magistrate inflicts a fine of a few rupees. There might be one case in a thousand where the Magistrate might have inflicted a punishment of imprisonment of a month or two. The procedure in these cases should be simplified. When the Magistrate issues processes under section 204 he should go through the papers and see whether the offence is punishable with a simple fine or the accused should be sentenced to more than Rs. 50. If he comes to a decision that the ends of justice would be met by inflicting a fine up to the maximum of Rs. 50 the Magistrate should be authorised to pass a provisional order that the accused is fined a particular amount. If he pleads guilty to the charge he may deposit this amount of money, before the date fixed for the hearing of the case. If the accused deposits the money, the case will be disposed of. If the accused considers himself not guilty, or thinks he is falsely prosecuted, he may appear on that day and contest his case.

The hon. the Home Minister said that the principle underlying this amending Bill is that the guilty should be punished but every person should be provided with facilities to defend himself and no innocent man should be punished. My submission is that if the accused pleads guilty why should you call them to court? Give them the option. Let them pay a fine. The time of the Court will be saved; the harassment to the accused will be saved. But if they think that they are falsely prosecuted, they have been falsely implicated, full opportunity should be given to the accused so that they may defend themselves. It is not fair that all murderers, rape committers, dacoits and committers of heinous crimes should be given an opportunity of proper defence of sessions trial, commitment proceedings, warrant cases, and the persons who are prosecuted for petty offences be not given proper facilities for defence.

Why these innocent poor people who are not guilty should not be given? This is the mischief of British jurisprudence? Their maxim is that hundred criminals may escape but no innocent man should be convicted. This maxim is applicable only to criminals, big criminals who committed heinous offences but this maxim is reversed when it is applied to the persons who are alleged to have committed only petty offences. When they themselves are ready to plead guilty then why harass them. But in cases where the policeman falsely prosecutes an innocent person to extract money, there you deny justice. There the maxim is: let hundreds be convicted but no criminal should escape. My submission is: if you want summary procedure, have summary procedure. Convict a large number of cases by this provisional order and when the accused comes and claims to be tried because he has been falsely prosecuted, he should be given proper facilities for his defence. He should be tried according to the procedure which is laid down in warrant cases today. This procedure of warrant case is a recognised one. The accused must hear the evidence; he must cross-examine the witness; he must give his statement and thereafter his defence.

I do not grudge the sort of British justice which has been quoted by our Dr. Katju in his letter. But, I resent the remarks that in India witnesses speak lies—nothing but lies; the police man speaks lies and the witnesses, prosecution and defence—all speak lies, but in England—what happens? He has written in his letter—it is printed on page 26, volume C—Opinions on Criminal Procedure:

> "In a warrant case the essence of the procedure is that the accused hears the evidence against him first and then when a charge is framed against him he is called upon to cross-examine witnesses. This procedure is by no means very dilatory, provided, of course that the Magistrate applies his mind to the case, and does not adjourn the case repeatedly because his file is too heavy or he has got some other work to do. I must also emphasise one fact that lamentably in India owing to a variety of cases, factions in villages, lack of public co-operation with the administration of criminal justice, distrust of the police force, absence of social conscience, perjury is rife and I do not envy an Indian Magistrate who has to decide day in and day out criminal cases before him. In England an accused is brought before a Magistrate, the police constable gives evidence against him, the Magistrate looks up and makes a caustic remark and concludes by saying 'two months' and the case ends and substantial justice is done. Here every police constable is supposed to tell nothing but lies and so also almost every prosecution or defence witness."

This is a libel against the people of India. You think that all people in England speak truth while the Indians speak lies. It is not so; Indians do not speak lies. Their motto has been:

'सत्यम् वद धर्मम् चर'

'Speak the truth and follow the law'. But today on account of being slaves of British rule, the motto has changed:

'असत्यम् वद अधर्मम् चर'

'Speak falsehood and do not follow the law.' This is the practice prevailing today and this is due to the British. They framed and enacted this Criminal Procedure Code. In this Criminal Procedure Code......

Mr. Chairman: May I just remind the hon. Member that he has got many amendments. It would be better if he speaks on some of the amendments rather than making a speech which is in the nature of general observations.

Shri R. D. Misra: My submission was that we are discussing criminal cases. The first stage of a criminal case is investigation. After getting information, the police inspector makes enquiries. What does he do? He has to examine witnesses under section 161. There, no responsibility is cast on the witness to speak truth. The result of it has been that the High Courts in India in unanimous terms have declared that the witnesses are not legally bound to speak the truth to the police officer. When there is no duty cast upon the witness to speak the truth, how can they speak? Further, there is no responsibility on the prosecuting inspector to frame the record correctly. No guarantee has been taken. So, at the first stage, the investigation is nothing but a fabrication. The Courts do not believe it—Criminal Procedure Code, Section 162 does not believe it. It is only meant for some other purpose; it is not to be believed or produced. Your Evidence Act does not believe it; Courts do not believe it. Here, you have heard what the lawyers and *vakils* had said. They all had been criticising that whatever the police write, it is nothing but false. We have

[Shri R. D. Misra]

to change this system in such a way so that the people of India may have confidence in their police and in their records......

An Hon. Member: Is it possible under this clause?

Shri R. D. Misra: I have given my amendment; it is still pending. That clause is still coming; it may come tomorrow before you. I have to propagate for that clause. I am appealing to Dr. Katju...

Mr. Chairman: We are considering the other clause, today......

Shri R. D. Misra: Yes, yes. By the way, I was giving it out. As regards warrant case, my submission is that this warrant procedure should be the same for complaint cases as well as for police cases. There should be no difference. Whenever in appeal or otherwise this discriminatory procedure goes to the Supreme Court, the accused will plead article 14 of the Constitution and these sections will be declared *ultra vires*. That is your sections 207A and 251(A), the new procedure you have added, and the 13 sub-clauses and the 17 sub-clauses of these sections—all are nothing but the copies of the other sections of the same chapter. You have not taken this thing into consideration. You must have made a simple procedure for the trial of cases. My appeal is to accept my amendment that these procedures should be the same for all sorts of cases whether they be of a complaint case or whether they be on a police initiation. For that I have moved amendments. I have given another amendment relating to section 204. I am asking the House to accept this amendment of mine that the complainant should not be forced to appear on every date of the trial. If he has engaged a counsel for himself, then there must be no obligation on the complainant to remain present on every date of the case. I have submitted that this should be provided in section 204 that if there is a counsel representing the complainant, there is no need for him to be present.

2 P.M.

Shri Raghubir Sahai: I think they have accepted it.

Shri R. D. Misra: No. As the attendance of the accused is dispensed with, similarly, it should be provided for the complainant too. Then, there is a consequential amendment. If the House accepts my amendments the procedure would be simplified. This procedure of mine is on the same principle which is laid down in section 207-A and 250-A. Hence those sections ought to be altered. There must be the same procedure for all cases. The other sections of Chapter XX and XVIII can be altered instead of these sub-sections. I want a simplification of the procedure. If you have gone through my procedure which I have submitted—it is printed as Annexure D to my Memorandum printed in Supplement D of opinions of Criminal Procedure—you would see that there are only 15 clauses and they are to substitute all your sections from 241 to 309 of the Criminal Procedure. If you are not going to simplify the procedure, we shall have this complicated procedure; please don't make it a complex one.

Pandit Munishwar Datt Upadhyay (Pratapgarh Distt.—East): That is a Code by itself.

Shri R. D. Misra: It is a Code by itself. I have given all my amendments. I am submitting all this so that the Government may be kind enough to accept my amendment and make the procedure a simple one.

Mr. Chairman: Pandit K. C. Sharma. I would request him to be very brief.

Pandit K. C. Sharma: I shall be very short.

Pandit Munishwar Datt Upadhyay: I must say that the time should be shortened for each speaker. If every Member takes half an hour, others may not get an opportunity.

Mr. Chairman: The first Member took 15 minutes; the second Member 40 minutes; the hon. Member who spoke last took 31 minutes.

Pandit Munishwar Datt Upadhyay: There are persons who take a shorter time.

Mr. Chairman: At the same time, the House will realise that since very important sections, clauses 26 to 38 relating to the procedure in commitment and warrant procedures are under discussion, after all, some time would be taken. I will be guided by the House. If the House wants a curtailment of the time, I have no objection. As the hon. Deputy-Speaker said, half an hour is not unreasonable.

Pandit K. C. Sharma: Half an hour will do. I have made my points just in the beginning. I stand by them and I raise my voice on behalf of the unfortunate people who have the misfortune to stand in the dock. The principle on which I raised objection against the proposed amendments with regard to the commitment and warrant procedure is that in modern jurisprudence, the tendency is to take most crimes as civil wrongs, and to take the serious crimes, as my hon. friend the previous speaker said, as heinous crimes, as criminal crimes. Therefore, it is no use sending people to jail on offences which are the result of social conditions, which proceed from the man's getting off his feet or getting beyond controlling himself. Suppose a man is placed in conditions that he cannot make both ends meet, and he passes with a friend and picks up a watch, it is a civil wrong. What is the use of sending a man who cannot earn a living, to jail and making him a confirmed criminal? My respectful submission is that the law as it stands gives ample opportunity for the unfortunate people whose misfortune is to stand in the dock in cases in which, in essence, the offence is a civil wrong. It does not reveal a criminal tendency as such; it does not reveal danger to society; it has not affected the security of the State; it does not bring down or demoralise the morale of society. In such cases, it is no use sending the man to the jail and making him a confirmed criminal.

Shri Raghubir Sahai: Which clause or which amendment is the hon. Member discussing?

Pandit K. C. Sharma: I am discussing these amendments with regard to the commitment and warrant procedure. My argument is that by taking away the original opportunity of cross-examination, you are sure to send the man to jail and condemn him for offences which are the result of social conditions. This is the principle I am arguing about.

My next point is, the Constitution ensures every citizen equal protection of law. I refer to article 14 of the Constitution. What does equal protection of law mean? Protection against what? Protection against a man's liberty being taken away or his life being extinguished? Protection is against wrong against the liberty or life of a man. Protection is not because a man is prosecuted by a private citizen or he is *challanned* by the police. As I said before, there are two cases. A man commits murder. The police does not *challan* him because it does not believe the witnesses who tell the story before it or it finds that the case is not such as has been told to it. A private complaint is lodged. Another man commits murder. A police prosecution starts. In one case, the man

[Pandit K. C. Sharma.]

has the right to cross-examine the witnesses at the commitment stage. Then, he has the right to produce his defence and if he convinces the Magistrate that there is no *prima facie* case, he is discharged. In another case, he has no right of cross-examination. Some papers are produced and the man is sent to the Sessions Court, and he has to stand a long-drawn trial. Every day that he has had to stand before the Sessions Court and defend himself, further than it was necessary for a discharge before the Committing Magistrate, is a wrong against him. Suppose he has to stand before the Sessions Court for two months and had it been a case before the Committing Magistrate, he would have been discharged in 10 days, my submission is that the 50 days that he has stood in the dock before the Sessions Judge is a wrong to the man.

Dr. Katju: May I just intervene? Is it my hon. friend's contention that there is commitment proceedings for 10 days, and 60 days are taken by the Sessions Court? Have you heard of such a case like that?

Pandit K. C. Sharma: The ruling of the Allahabad High Court is that it is not necessary at the commitment stage to record all the evidence. It may be possible that some substantial witnesses are examined in the committing Magistrate's Court and the case is sent up. In the Sessions Court all the witnesses are examined. Suppose there is a riot case, there are 300 witnesses. It is not necessary for the Committing Magistrate to examine all the 300 witnesses.

Shri Raghubir Sahai: What is the present practice?

Pandit K. C. Sharma: Even the present practice is to examine the substantial witnesses: not to examine all the witnesses.

Shri Raghubir Sahai: It is not the practice.

Pandit K. C. Sharma: The instance I have given is not certainly beyond possibility. What I mean to say is that the constitutional right of equal protection of law to a citizen is denied in the case of prosecution by the police as against prosecution on private complaint. Therefore, it violates the letter and spirit of law. My second contention is that by taking away the two opportunities of cross examination, you are denying to the accused the right of defence. As I contended previously, the words used are 'procedure laid down by law', in article 21 of the Constitution. Despite my hon. friend Shri N. C. Chatterjee's interruption that it has been held by the Supreme Court that law there does not mean natural law, my contention is that when these words were used, the understanding was that the word 'law' would be used in the same sense, to the extent possible, as the words 'the law'. Otherwise, there is no limit to the tyranny of the majority. 'The law' means something, which 'law' does not mean. I shall put a direct question. Suppose A, a man, marries B, a woman; and suppose this Parliament passes a law by the tyranny of the majority that B would not go to the bed of A, but B would be compelled to go to the bed of D under the law of the majority, I ask: Is such a law possible? It is not possible. It will lead direct to a bloody revolution. What is the use of going at random and doing everything without regard to certain fundamental questions? 'Law itself implies something definite, harmony, certainty, and an appeal to the civilised conscience. So, my contention is that the word 'law' as used there, means that every accused will have the right of self-defence, *i.e.*, the right of defending himself. Now, defending himself means two things. Bringing the defence witnesses is one thing, and testing the veracity of the witnesses or of the evidence against him is the second thing. How is he to test the veracity of the witnesses against him? He employs two methods for testing the credibility of the witness, namely whether a witness is such that he can be believed; he cross-examines him, and puts him questions, whether he was present on the spot, whether he is telling the facts as he observed them, whether he has been coerced to tell a story, whether he is prejudiced against the accused, and so on. This is one stage of cross-examination. The second stage is to explain away the facts or evidence against him. So, on the first opportunity of cross-examination in a warrant case under section 252, and in commital proceedings in sessions cases, the accused tests the credibility of the witnesses. And at the second stage, under section 256 in warrant cases, and cross-examination in sessions cases, he builds his own self-defence, and he tries to explain away the facts that are against him. The whole record in the sessions cases, and the statement of the witnesses, are before the lawyer; and he builds his story which can explain away the things; he can build a defence on those very facts. Suppose a man is *challanned* and it is said, the firing took place, the *mar-peet* took place, the houses were burning, a big crowd of 300 people was there, and it is admitted that A was there: but A says, well, I was there, but I was going just to post my letter. After the whole story has come on record under section 256 in warrant cases, and in sessions cases before the Sessions Judge, the accused explains away the facts against him.

These two opportunities are necessary, and law as it stands, procedure as it stands, give ample opprtunity to the accused, if he is innocent, to get himself acquitted. Therefore, this right should not be taken away. I am very emphatic upon it that whatever changes may be made, so far as this right of cross-examination under section 252 in warrant cases and at the stage of committal proceedings in sessions cases, is concerned, it is a right which should not in any case be taken away. Situated as we are, this is very necessary, and this has ample justification. It is something worth the cause of justice. To my mind, taking away these safeguards would mean taking away the right of defence of the accused, which would be against the letter and spirit of the Constitution, and also against the spirit and essence of law, as it is understood in civilised countries.

Shri U. M. Trivedi: I will not take a long time in speaking on these clauses. But what has struck me is this. Instead of providing for these two different provisions, why not be very blunt and say, we are going to do away with committal proceedings? Why should the Home Minister be chary about it? Why should he not come out and say forthright, we are doing away with all these commitment proceedings and the *challan* or the police report will be directly submitted to the Sessions Judge? Why have one procedure so far as complaints by private individuals are concerned, and quite another in cases where the policeman files a report? Both amount to the same thing, and the same type of proceedings are to begin under these circumstances, why discriminate between the two? This is the first discrimination that is sought to be made. The second discrimination is this. In one case, the proceedings will be under section 207 and the new section 207A, while in the other case. it will be under section 251. You are bent upon depriving the accused of his opportunity of cross-examination. In other words, a novel type of procedure is to be laid down, an inquisitorial type of procedure is to be laid down, saying that whatever the police say is truth, whatever the police has put down is the truth; and the policeman may record anything, and that will come in as truth.

Mr. Chairman: In commitment cases, according to the new amendment of

Shri Datar, the right of cross-examination has been given.

Shri U. M. Trivedi: In which has he suggested?

Mr. Chairman: In commitment cases, according to the new amendment moved by Shri Datar, the right of cross-examination has been conceded.

Shri U. M. Trivedi: Conceded to the accused?

Shri N. S. Jain: It is amendment No. 545.

Shri N. C. Chatterjee: I take it that sub-section (4) of proposed section 207A is being altered. Formerly, the accused was not at liberty to put any questions to the witness.

Shri N. S. Jain: There is amendment No. 546 to that effect.

Shri U. M. Trivedi: But I am told that the proviso to sub-section (4) still remains.

Shri N. S. Jain: Yes, the proviso remains.

Mr. Chairman: Shri Datar's amendment is in substitution of lines 4 to 13 on page 9 of the Bill.

Shri U. M. Trivedi: The proviso reads:

> "Provided that no statement shall be recorded under this sub-section of any person whose statement has already been recorded under section 164."

That still remains.

Mr. Chairman: According to that amendment, this remains.

Shri U. M. Trivedi: So, the mischief still remains. You, Mr. Chairman, have been a lawyer of long standing, and so has been our Home Minister. Probably he seems to have forgotten those days when he used to appear before some smaller Courts.

Shri N. S. Jain: He never appeared before small Courts.

Shri U. M. Trivedi: That is why he does not know. Those who can pass through the big holes always forget that small things also can pass through the big holes.

Dr. Katju: What is the small hole and what is the big hole? I do not quite follow the small hole and the big hole.

Shri U. M. Trivedi: You need not follow them.

Dr. Katju: I have learnt to follow many things, but not this big hole and the small hole.

Mr. Chairman: He says that the hon. Minister has forgotten the days when he used to practice in Courts other than the High Courts.

Dr. Katju: I have conducted cases before the Magistrates, cases before juries, cases before Sessions Judges, and also cases before Honorary Magistrates. In fact, my very first case was a criminal case.

Shri U. M. Trivedi: I thank the hon. Home Minister for the very valuable information he has given. I am saying that some time at least, he might perhaps be reminded of those days then, he will realise that these statements under section 164 are worthless, and useless. They are not worth the paper on which they are written.

Dr. Katju: Very good. Why should the accused bother about it?

Shri U. M. Trivedi: Statements are recorded under section 164. The policeman accompanies the man, he holds out certain promises to him and under these circumstances only statements under section 164 are recorded.

Dr. Katju: May I intervene? How is the accused damaged by that statement? Statement under section 164 is no evidence against the accused.

Shri U. M. Trivedi: I am sorry; perhaps the hon. Home Minister forgets that this very provision in section 207 says that it shall be a statement against the accused.

Dr. Katju: No, not at all. You are misleading.

Shri U. M. Trivedi: Let me have my say. You are not going to allow any opportunity of getting that witness to be cross-examined or even produced before the Magistrate, and the whole thing goes on record as a statement for and on behalf of the prosecution. It may come out in the Sessions trial when the man is being jeopardised, when his whole liberty is being jeopardised and he may be able to expose the hollowness of the whole statement. But still, *prima facie*, to begin with, why charge him with something and make him undergo a defence.

Mr. Chairman: In regard to that, their authority is to prove that the statement under section 288 is taken. Then that statement can be utilised for the purpose of corroboration also.

Shri U. M. Trivedi: Exactly. I do not say that it is not used for that purpose also. But the mischief is there. No Judge worth his salt is prepared to agree that the statement under section 164 should have such a right of precedence that that should not be allowed to be cross-examined, whether the statement under section 164 has been properly made or not, at the initial stage. This mischief is now being introduced into this clause.

Mr. Charman: According to other hon. Members and also according to the Home Minister, all that is wanted is that the accused must know what the case is.

Dr. Katju: That is it.

Mr. Chairman: This can be supported on that ground alone. If the accused wants to further......

Shri S. S. More (Sholapur): But will not that statement go to influence the mind of the committing Magistrate?

Mr. Chairman: It will.

Shri S. S. More: To that extent, it prejudices his case.

Mr. Chairman: What difference does it make?. After all, under the present law, the benefit of doubt is given to the prosecution in commitment, in all cases in which there is a possibility of conviction.

Dr. Katju: You have put it very well.

Shri N. C. Chatterjee: You don't know him yet.

Shri U. M. Trivedi: There is possibility of some serious offences having been committed. We are depriving him of an initial stage whereby an accused person can easily get off with a slight explanation, just as the speaker who spoke before me, Pandit K. C. Sharma, said. The slightest explanation will possibly do away with the *prima facie* evidence that may be put forward before the Magistrate under section 164. I remember a case where witnesses in one commital proceeding went on saying—they were just tutored, they were witnesses who were never on the scene—that 'standing at such and such a place, they saw the accused committing that particular crime'. The statement under section 164 was there recorded. It so happened that there was a huge temple in between. One slight question was put—'were you standing near that big temple?' The answer was 'yes'. Then, That temple is nearly 10 feet high. Could you see anything beyond that? It was impossible for anybody to see. There was an inspection by the Magistrate. So I say, why jeopardise the position of the accused person simply because he has been charged with a heinous crime. Where is the money for him to put up the defence? Whenever cases are conducted before Sessions Courts, senior counsels have got to be engaged. Smaller people like

[Shri U. M. Trivedi]

Mukhtiars and others can conduct cases before the Magistrates. They are frightened out of their wits whenever committal proceedings have taken place. They have to appear before Sessions Courts. If you insist upon this, that this will be a method of speddy trial, I very respectfully submit that you are in the wrong. Perhaps many speakers before me have reiterated this position and I hope the hon. the Home Minister—he has admitted before us that he had been a lawyer himself—would see his way in not insisting upon this new provision. Let the provisions of clause 207 (a) and (b) be done away with.

Then there is one thing which I would like the hon. the Home Minister to explain. The language of clause 207A, sub-clause (6) is:

> "When the statements, if any, have been recorded under sub-section (4) and the Magistrate has considered all the documents referred to in section 173 and has, if necessary, examined the accused, and given the prosecution and the accused an opportunity of being heard......"

Then at another place, in sub-clause (7), it is stated:

> "..and the accused being given an opportunity of being heard".

I think the idea underlying this is that they might be allowed to address the court. But why do you not say it in so many words just as we have done in the case of the Civil Procedure Code? In the Civil Procedure Code we have used the words 'addressing the court'; here we are using the words 'an opportunity of being heard'. This 'being heard' has been interpreted at various places in America and England as 'getting a proper hearing'. 'Proper hearing' may include producing evidence and cross-examination of witnesses. So if that is not the object in view and you do not want to create merely a legal tussle and legal trouble later on, why not be very specific about it and say that they may be allowed to address the court? Why create a sort of trouble not only for lawyers but for the accused to run after something? Why not say that this is the position? I think under Order XVIII 'Hearing of the suit'...

Mr. Chairman: This point is absolutely clear because the right of cross-examination is given separately. The right of producing evidence is not given. It automatically means one thing—the right of being heard.

Shri U. M. Trivedi: I do not challenge your interpretation. You are a lawyer. You know perfectly well that the view which I wish to place before the House is also a possible one. Why use the language which has been interpreted before time and again at various places where jurisprudence has held good, that this word 'hearing' has got only a specific meaning? Even under the Civil Procedure Code, the heading of Order is 'Hearing of the suit'. 'Hearing of the suit' always means examination of the witnesses and cross-examination of the witnesses, and Order XVIII, rule 2(2) says:

> "The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole clause".

[SARDAR HUKAM SINGH *in the Chair*]

If we want to allow only the opportunity of merely addressing the court, why should we not put it down in such a specific language that the accused or the prosecution shall have the right of only addressing the court and not the right of being heard? This word 'hearing' under the ordinary connotation of law will mean hearing *in toto,* hearing fully. 'Hearing' means giving him a day to allow him to produce his witnesses, to examine all those witnesses and to cross-examine them and then address the court finally. These are all included in the use of the word 'hearing'.

Then I will draw the attention of the House to another proviso to sub-clause (11) of clause 207A. When the committal is to take place before the High Court, then of course some liberty is given to the accused person to produce his list of witnesses before the High Court and if he has not been able to file the list of witnesses before the Magistrate he may have an opportunity now. But this is being changed, the moment the proceedings are to take place in the Sessions Court. More than that, the Magistrate is left to decide upon the list of witnesses. It is said:

> "Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendence of the witness and all other proper expenses."

All the handicaps we can find are put against the poor accused person. If there is any doubt in the mind of the Magistrate, he will have to produce the witness and the Magistrate has to be satisfied what evidence he is to give. Why should the Magistrate try to know it beforehand? What are the methods by which he will know? He will ask the witness to be produced, affidavits to be produced and in the affidavits the witness should show what type of evidence he is likely to give and then give up all the defence and part of the defence will be disclosed to the prosecution. This power is not given to the Magistrate if the committal proceedings are to take place before the High Court. Why this differentiation? If we can trust the High Court to do justice in a similar case, why should we not trust the Sessions Court to do justice in a similar case. Leave it to the Sessions Judge and leave it to the High Court. They have ample powers to refuse to examine witnesses who are likely to defeat the ends of justice. But, this proviso leaving it in the hands of the Magistrate at the initial stage for forcing the accused person to disclose what type of evidence his particular witness is going to give is a very great injury contemplated against the poor accused person. Then on top of it, we have absolutely no provision that in all cases his expenses should be paid. Here something more is added; that he shall be made to deposit all the expenses that may be necessary to be incurred for summoning such witnesses. It will work very hard upon the poor accused. The criminals are never rich persons. Only very few rich persons are there who are criminals and such persons can always do mischievous things. They will never undergo this trouble of going before a Sessions Court. They have other means of getting out before the police can get hold of them. We are talking of those persons who will find themselves in this position, that poverty having driven them to commit a crime, they will find that poverty will again stand in their way of getting a fair trial.

Under these circumstances I submit that a proper note must be taken of this position in the law that is enacted. Any law that is enacted should not be placed against the poor accused persons.

With these words I support the amendments.

Shri Tek Chand (Ambala-Simla): Mr. Chairman, when I heard my hon. friend Shri Frank Anthony my reac-

[Shri Tek Chand]

tion was twofold. I was inclined to agree with his criticism but not with his caustic remarks against the party of which I happen to be a Member. I find myself in complete agreement with his facts and the analysis of those facts, but not with his oblique criticism.

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Sir, the clauses which are being tagged under this group are rather important. It is a matter of extreme satisfaction to me that the hon. Deputy Minister, Shri Datar, has tabled an amendment number 546 to clause 29, sub-clause (1); otherwise, I feel that the accused as the mute and immutable pillar of flesh and bone would have been there getting no help for himself and not even being permitted to open his lips as much as to raise an objection to the nature of the questions put. So far, so good. But, I wish to invite the pointed attention of the hon. Home Minister to sub-clause (6) of clause 29, wherein he says that the Magistrate after considering the documents referred to him under section 173, and after recording the statements of the witnesses as are produced, is given the power to examine the accused. In all humility I pray him to reconsider this. Accused is being called upon to enter upon his defence before prosecution evidence is complete. If speed is the desideratum, let the accused be examined after he has been committed or give this option to the accused either to make his statement then and there if he so desires or to defer his statement after the entire prosecution evidence has been recorded. It will be in the interest of speed if you do not examine the accused. A suggestion possibly is that you are conferring a boon on the accused. Pray, withdraw this favour. Accused likes to open his lips when the entire case against him has been placed in court. There is another thing. While inviting the pointed attention of the hon. Home Minister to sub-clause (6), I also wish him to examine the provisions of clause 35, sub-clause (2) side by side, which also provides:

> "If, upon consideration of all the documents referred to in section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary.."

These words are susceptible of abuse. The accused so far has had the privilege of making that much statement under section 209, sub-section (1) as goes to meet the prosecution evidence. We delete the most important words:

> "When the evidence referred to has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him..."

The object of calling upon the accused to open his lips was that, if there is anything in the prosecution case which he may like to explain away, he is given an opportunity to have his say. But, this protective clause you are taking away. And, what is more, you are giving complete option to the Magistrate to put such questions to him as he may like. What will happen? The accused will be—I do not say necessarily in all cases but there is certainly a risk in a large number of cases—put all sorts of questions. All sorts of incriminating questions will be put to him which are of the nature of cross-examination. The questions put to the accused will be prone to be more inquisitorial than with a view to seek information or elicit such facts as he may be in a position to volunteer. Both these clauses do not put any clog on and do not restrict the power of the Magistrates as to the nature of the questions he may put to the accused with a view to examine him. I want expunction of these words. I want that the free liberty that is being given to the Magistrate to put any question to the accused under these clauses should be restricted, and the protective words as occurring in section 209, sub-section (1) ought not to be deleted and ought not to be expunged.

So far as sub-clause (17) to clause 29 is concerned, I think a certain error has crept in. Possibly a situation may arise which may lead to certain difficulties which has not been visualised so far under sub-clause (17).

Shri Dabhi (Kaira North): That has already been deleted.

Shri Tek Chand: If I understand my hon. friend who just now intervened, that sub-clause (17) is no longer part of the Bill, then I am very happy and I have got nothing more to say.

Shri Raghubir Sahai: There is an amendment.

Shri Tek Chand: That is good enough. Then kindly see that in clause 31 those words are omitted. I feel that clause 31 must be omitted; otherwise, the only safeguard that the accused has got will also disappear.

Regarding clause 34, I have got two submissions to make. There again, it appears that due to inadvertence a possible situation has been overlooked. In clause 34, under sub-section (2) of section 250, you enlarge the powers of the Magistrate to impose by way of compensation not a stated sum but half of the amount of fine he is empowered to impose. You have overlooked. I submit, the very large number of instances of offences wherein the ceiling by way of fine is not provided. A very large number of offences are there where it is within the competence of the Magistrate to impose any fine that he likes—whether it runs to six digits, five digits or four digits. You are fixing your attention to the cases of those offences only where the amount of fine is specified and you tell the complainant that he can obtain by way of compensation an amount not exceeding half of the amount of the maximum fine provided for that particular offence. For the sake of facility, the hon. Home Minister has only to turn to the schedule attached to the Code of Criminal Procedure and to find a host of offences where the extent of the fine is unspecified. Therefore, this is a matter that requires a certain amount of vetting and closer attention.

Regarding section 250, I have to say a lot on the point of principle involved. Section 250 is an apology which the prosecution owes for having prosecuted an innocent man. Look at the hurdles you place in the way of the Magistrate before he can do justice to the accused who has been not only falsely accused, but against whom there is no foundation at all for the charge.

Firstly, section 250, even as it was, has been eaten away and simply diluted by the limitations imposed there. Compensation is not available against the State; compensation is available against the private complainant only. Compensation is not available where the prosecution is false and where the whole case has been concocted. Where the prosecution evidence has been fabricated, the accused can demonstrate that to the satisfaction of the learned Court, but the learned Court will be helplessly writing its hands and say "Though I concede that the complaint is false, evidence concocted and the whole thing shameful, I cannot give you any support unless you further prove that it was not only false but it was also frivolous, or in the alternative, not only false but also vexatious. In one way anybody may put it to me "Any criminal prosecution is vexatious and why bother about it?" But if you were to peruse the decided case law, the interpretation given to the word "vexatious" is that they were deliberately and intentionally

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done with a view to cause vexation or harassment—not automatically they have resulted in harassment or vexation—but they were intended to be so at the inception, the object being that he should be harassed. That alone is 'vexatious' within the contemplation of section 250. Regarding the 'frivolous' part of it, if one has to probe into the earlier history of the Criminal Procedure Code, the words 'frivolous *or* vexatious' till 1923, were made 'frivolous *and* vexatious'. But in all fairness to the innocent man whose innocence has been demonstrated to the hilt, is it not sufficient that the accuracy should be proved to be false? What is the frivolity about it that one must necessarily prove? You have got to see that it was false and frivolous, that is to say the whole thing was instituted out of feelings of frivolity, the complainant wanted to be frolicsome, he wanted to have some fun, he wanted to have a mockery of the trial. Whether it was mockery or whether it was something else, how can you insist upon this impossible test? Now, I pray that if the hon. Home Minister could spend a minute upon the relevant section of the Criminal Cases Act of England he will find the extent to which the law has become generous there. Originally, as a matter of fact, it is a century old law in England,—the first Act having come into force in 1858—and the main Act came in 1908. Now, they have a consolidated Act called Cost in Criminal Cases Act, 1952. Section 1 and section 6, sub-section (2) of this Act are worthy of close scrutiny. Therein it is provided that if it is found that a person, accused has been acquitted, he is entitled to compensation against the prosecutor, whether the prosecutor happens to be a private prosecutor or he happens to be a State, prosecuting as such. In either case, under the provisions of that law—pray I must not be misunderstood: when I say that it is the Cost in Criminal Cases Act, 1952, it is an Act which is made up-to-date, though it is a century old law in England—a man who has been innocently subjected to the harassment of a criminal trial is entitled to compensation. He is entitled to costs. We have been very niggardly qua an innocent man, a man who has been able to demonstrate his innocence. There is no reason why he should not be given some costs, some compensaton, in some proportion as this august House may like to fix.

Regarding clause 35, I have only this much to say. You are giving right of one cross-examination to the accused. I personally consider that you are not being very fair to him. But if the accused were permitted to hear the statements, hear the evidence of all the prosecution witnesses—let us assume that the prosecution is going to lead seven or eight witnesses for the prosecution—you should allow the accused to say, if he so desires, "Please conclude the examination-in-chief of all your witnesses. But do not compel me to cross-examine every witness as soon as the examination-in-chief of a particular prosecution witness is concluded. Permit me to reserve cross-examination of the whole lot together, one by one, after the examination-in-chief is concluded." The result will be that instead of three rights of cross-examination that the present law allows him, you can confine that right to one cross-examination. I am contented, you must not compel a prosecution witness 'A' who has come and stood in the witness box, to be cross-examined immediately after his examination-in-chief. "But, after you have done with him, you are not going to recall A again." This might have an effect on the following witnesses—the witnesses who are to follow who may disclose a lot of pep. If you have an opportunity to cross-examine A, you deduce some additional material whereby you may be able to demonstrate or establish your innocence. This was as contained in the original Bill when it came up before the Select Committee. Either permit the accused the right of two cross-examinations as the present law allows or if you are going to confine his right to one cross-examination only, pray give him this much option, that it will permit him to say to the Magistrate, "Sir, I abide till the entire lot of prosecution witnesses are finished. Then give me just one right of cross-examination. One by one, I shall cross-examine them." This is a compromise. I hope this is commendable to the Government, because, so far as their object is concerned, their object is served by restricting the right of cross-examination to one occasion only. The only possible objection that I conceive they might say is, the witnesses have to be brought together. They might have to come up again for cross-examination. When putting into the scale the ordinary advantagts of a more just and fair trial to the accused, I think—that consideration—ought not to weigh with the Government.

Lastly, I have just one word of comment to make regarding clause 35, sub-clause (10). You expect the defence to bear the expenses incurred in calling his witnesses. If the principle still holds good—that the man is assumed to be innocent—the State must offer to him every facility to establish his innocence when the State is going to the extreme to establish his guilt. In the matter of expenses, it will be an uncalled for burden upon the accused that he must bear the expenses of demonstrating his innocence. With these words, I conclude.

Pandit Thakur Das Bhargava: To start with, I must express my great sorrow at the fate of this Bill. When it was said in the papers that the hon. Home Minister was bringing in his new Bill, the whole country thought that judicial reforms are to be ushered in by the Government. I was myself very happy when I came to know that the commitment proceedings would be done away with, because I thought this meant. . . .

Pandit K. C. Sharma: That was a mistake on your part.

Pandit Thakur Das Bhargava: May be it was a mistake. I accept it. But in view of what follows, the hon. Member will soon realise that it is a mistake on his part to have said so.

I feel that the hon. Home Minister rightly complained to this House that at present, in sessions and other cases, the number of convictions is not satisfactory, the percentages of convictions are not satisfactory. He rightly complained before this House that there is undue delay in the disposal of cases. This undue delay was in many cases the cause of real injustice to the prosecution as well as the accused. If the accused is innocent, when under custody, and if he is going to be acquitted, the acquittal is delayed. So far as that provision is concerned, there is much more time for the accused to tamper with the witnesses, and this is the real reason why speed is quite necessary. Apart from other causes, my own opinion is that we would have at least got ten to 15 per cent. more convictions in sessions cases if this commitment stage was not allowed to have its course as it is now having. Similarly, my own view is that if this commitment stage was obliterated, we might have saved crores of rupees. I do not even mind the savings so much, but I do care that if the cases are not disposed of with the utmost speed, then the difficulty is that nobody realises that justice is being done. If, in a sessions case, the accused comes before the Sessions Court after a year or so, even if he is convicted, then the people in general do not realise the connection between the conviction and the commission of the offence. As the case goes slow, as the disposal of the case is delayed, the sympathy of the people in general also goes with the accused. They forget that the

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offence was committed. It is from that point of view that when the hon. Minister sent his Bill to the country, there was such an amount of support to him that I should think his original idea was supported perhaps more than he himself imagined. His first reaction was that he did not want the commitment procedure. Then, he sent his Bill to the country. With your permission, I shall just read out the names only who supported it. The Government of Bombay supported it. The Government of Madhya Bharat supported it. The Punjab Government fully supported it. The Government of Uttar Pradesh supported it. The Government of West Bengal supported it. The Government of Rajasthan supported it. The Saurashtra Government supported it. Bilaspur, Delhi, Himachal Pradesh, Manipur and Orissa supported it. That is so far as the States are concerned. Only one State, Madras (page 144) did not support it. In regard to the opinion expressed by High Court Judges and Sessions Judges, the preponderance of opinion was in favour of this view that I think we are doing a wrong thing in not adopting it. Shri Satalvad, the Attorney-General of India supported it; the Bombay High Court agreed; Justice Mudholkar of the Nagpur High Court supported it; Justice Falshaw of the Punjab High Court and other High Court Judges of Punjab supported it; Justice Mahapatra of the Orissa supported it; Shri M. C. Desai, I.C.S., Judge, Allahabad High Court supported it.

3 P.M.

Shri N. C. Chatterjee: Dr. Katju does not support it;

Pandit Thakur Das Bhargava: It is his own proposal.

Then the Judicial Commissioner, Ajmer, Judicial Commissioner, Bhopal, Advocate-General of Rajasthan, Judicial Commissioner of Kutch and a very large number of Sessions Judges supported it. They know what they mean. They fully realise the implications of it. When I see the preponderance of opinion expressed by persons who had much to do with this commitment procedure, I think the brain wave which has been ascribed by my hon. friend to the Home Minister was a nice brain wave. It was supported all over the country. Only some bar associations did not support it. If you kindly read pages 143 to 167 of Supplement D you will be pleased to see that there is such a large preponderance of opinion in favour of the view that I must submit that what I stated to start with at the time of the consideration stage is perfectly true. Left to himself Dr. Katju would have maintained it, because he wants speed. But the misfortune is that some hon. Members of the Joint Select Committee did not like it. I do not blame them. It is only a question of one's feeling in the matter. I have expressed my view on the subject; my hon. friend Pandit Krishna Chandra Sharma does not agree with me. What I maintain is that there is such a large volume of opinion that the hon. the Home Minister would have been perfectly justified in coming to the decision that there should be no commitment stage at all. I am of that view even now and I do not think any useful purpose would have been served by this Bill if you continue to have this commitment stage even now. Therefore, I have given notice of two amendments which I would ask the House to seriously consider.

Dr. Katju: Number?

Pandit Thakur Das Bhargava: Nos. 390 and 395.

As I said before and as the House knows, there was an Act called the Punjab Public Safety Act in which there were similar provisions; there was direct commitment to the Sessions Court from the Public Prosecutor or the Police; there was no commitment stage at all. This law worked very well and has been tried also.

In my amendment No. 395 I have tried to put the wording in the provisions of the Public Safety Act. I may in this connection say that it was at the instance of the Punjab Government that the provision that there should be no commitment proceedings was originally incorporated in the Bill. The opinions of the Sessions Judges are given in the pages I have mentioned. The Delhi Sessions Judge Shri Kapoor has expressed his view that this has worked very well.

Shri Raghubir Sahai: The Punjab Government have changed their opinion now.

Pandit Thakur Das Bhargava: Have they? I am rather surprised. All the High Courts are of this view. The Punjab Government itself suggested to the hon. Home Minister that they had this provision in the Public Safety Act and the law should be changed.

Mr. Chairman: The whole amendment was undertaken at the intiative of the Punjab Government.

Pandit Thakur Das Bhargava: This was admitted by the hon. the Home Minister himself on the floor of the House.

Shri U. M. Trivedi: Is that Act still in existence?

Shri S. V. Ramaswamy: Was it an emergency legislation?

Pandit Thakur Das Bhargava: It was for a short time; otherwise the Punjab Government would have had no occasion to write to the Home Minister.

I would therefore suggest that my two amendments may be considered by the House in all seriousness. I know that the law has been changed at the instance of the Joint Select Committee. I have some hard words to say about the Committee. I do not wish to wound anybody's feelings, but that is my opinion. When it was announced that there is going to be a reform of the criminal procedure, I was very happy. I am at one with the hon. the Home Minister that speedy justice should be secured. . . .

Pandit Munishwar Datt Upadhyay: Not at the cost of justice.

Pandit Thakur Das Bhargava: I am coming to justice also. As at present witnesses are tampered with. The Select Committee has been pleased to alter these provisions.

[MR. DEPUTY-SPEAKER *in the Chair*]

The Select Committee recommendations have been very rightly altered by Shri Datar in one important respect. I thank him for that. I do not want the accused to stand like a mute figure in a Court of law, the accused standing there without uttering a word, whereas one question from him may lead to the collapse of the whole case. I cannot think of any Court in which this will be allowed. My regret is all the greater, because such a commitment proceeding serves no purpose. According to me commitment proceedings serves two purposes:

They apprise the accused with regard to the case to a certain extent. According to many rulings of our High Courts, the real purpose of the commitment proceedings is that in such cases where there is no chance of a conviction in the Sessions Court the accused may be discharged and not committed.

Dr. Katju: Are they discharged?

Pandit Thakur Das Bhargava: They are discharged. According to the hon. Home Minister only one per cent. of the cases is discharged. I do not know where he got this figure from.

An Hon. Member: From the U.P.

Pandit Thakur Das Bhargava: I know of several cases in which discharges have been ordered. If the proposition is that this commitment in the Criminal Procedure Code is for the purposes of seeing that only cases with reasonable chances of conviction are sent up, all other cases should be discharged.

Mr. Deputy-Speaker: But are discharges made frequently?

Pandit Thakur Das Bhargava: They are made and if they are not made, why are they not made? The rulings are that the benefit of doubt should be given to the prosecution and in every case there should be a commitment when conviction is possible.

Mr. Deputy-Speaker: To the accused?

Pandit Thakur Das Bhargava: When I said, for the benefit of the prosecution, I meant it.

Mr. Deputy-Speaker: You mean in committal cases?

Pandit Thakur Das Bhargava: According to our High Court rulings only such cases where there is a possibility of conviction should be committed.

Dr. Katju: My hon. friend's plea is that before committal to sessions there should be a preliminary trial before a Magistrate, in which a very serious case may be acquitted by him because he thinks the prosecution evidence is untrustworthy. So far as the difference between *prima facie* evidence and untrustworthy evidence is concerned, my hon. friend is pleading for untrustworthy evidence....

Pandit Thakur Das Bhargava: The Home Minister rises in his seat and puts certain things in my mouth which I have never said and will never say. (*Interruptions*).

Dr. Katju: He wants the rulings to be changed. The rulings say that the Magistrate should only see the *prima facie* evidence and not go into the merits of the evidence. He says that he wants these rulings should be changed.

Pandit Thakur Das Bhargava: My hon. friend says there is one per cent. conviction....

Dr. Katju: Of course; let us make it two, if you want....

Pandit Thakur Das Bhargava: It is entirely wrong. We know in the Sessions there are according to hon. Minister 83 per cent acquittals. Many cases in which there could be no convictions go before Sessions Judges since you have made these rulings possible. That is a fact. I want that these rulings should be changed and only in those cases in which there is a reasonable chance of conviction commitment must be made. First of all, you make this rule and then you say.... (*Interruptions*). The Home Minister is in charge of the entire thing. What are the words you are putting here.... (*Interruption*).

Dr. Katju: He wants first there should be a trial by a Magistrate of the first class in every murder case and a second trial by the Sessions Judge.... (*Interruptions*).

Pandit Thakur Das Bhargava: I do not want any commitment proceedings as the hon. Home Minister was also of the view. But he has yielded to the blessed Select Committee. In this House we cannot have our amendments passed. I know this difficulty. I know that I can convert the whole House to my own view but at the same time I know that I cannot succeed against the Home Minister in getting the commitment procedure eliminated. It is he who brought the original Bill saying that there should be no commitment and I am supporting it. Now, you yourself do not support me. It is the Members of the Select Committee who forced his hands. If he is left to himself, he will agree....

Dr. Katju: I am always frightened at you........

Pandit Thakur Das Bhargava: On the contrary I always love and respect the hon. Home Minister. (*Interruptions*).

An. Hon. Member: Love and respect are dangerous....

Mr. Deputy-Speaker: Both attitude seems to be possible.

Pandit Thakur Das Bhargava: I am very glad you are reconciling. I will only get half an hour if I am not interrupted.

Mr. Deputy-Speaker: The whole thing must close at 4 o'clock.

Pandit Thakurdas Das Bhargava: At 4-30.

Mr. Deputy-Speaker: At 4 o'clock.

Dr. Katju: I should reply.

Pandit Thakur Das Bhargava: It is my misfortune that whenever I rise to speak the question of time comes before me and I am not even allowed to take the time of half an hour which you were pleased to allot......

Mr. Deputy-Speaker: The hon. Member can take half an hour.

Pandit Thakur Das Bhargava: I am not going to take more time than the other hon. Members....

An. Hon. Member: There are many other Members who are anxious to speak on this.

Dr. Katju: My hon. friend, when he was in the Chair, used to give only 15 minutes.

Pandit Thakur Das Bhargava: I did not reduce the time. When I started I gave the ruling that the Deputy-Speaker has stated that half an hour is a reasonable time; that is what I said. Just as he has done, before he puts things in my mouth which I have never said.

My first point is and I regret it as a great tragedy—that the commitment procedure is still there because according to me this commitment procedure is responsible for a good many acquittals in Sessions cases.

I was coming to the point that if the commitment procedure is there, how can we improve it? The Select Committee have done a great wrong to the accused in this country. In the first place when Mr. Trivedi was speaking and making out a point that it is not evidence under section 164, I gave him to understand that from a certain point of view, from the point of view that the accused is better informed of what the case against him is, this is useful to a certain stage. But the provision under 164 that if a witness is examined, he will not be cross-examined in a Commitment Court, is very wrong; it is a wrong procedure in so far as it dis-entitles every accused to earn a discharge. It is not alone. I do not know from what point of view the Select Committee has made other changes. If there was not sufficient material on the record, why should the accused be sent up; he should not be sent up. Now the words are: 'if the charges are groundless...' Then alone he can be discharged. It is entirely wrong. They have tightened the case against him in many respects. This is not alone. Section 540 has, to some extent by implication, been taken away because the words are after certain things are done the accused must be examined. What is his examination? The very essense of his examination should be that he should be asked questions to explain incrimination matters so that he may get a discharge. I do not agree what Mr. Anthony in his entire statement of the law that the accused should in all cases be not allowed to explain things that have appeared against him. I understand that a person can by making a statement earn a discharge; that was the original 209 also. The words are that the accused could be examined to explain away the circumstances appearing in evidence against him. These words have been taken away under clause 31. It means that now the accused is at the mercy of the Magistrate and he can be cross-examined. It is entirely wrong; it is putting the cart before the horse. My humble submission is this. The sub-inspector would have in the hollow of his hand the life of the accused. He will have his own way; it is in his hand to examine one witness who was present at the actual commission of the offence in the Commitment Court and one witness under sec. 164 in some other Court. The other witness examined elsewhere under sec. 164 cannot be

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examined by the Commitment Court. Supposing he makes a statement which beliefs the entire prosecution case he could not take advantage there. Therefore, my submission is that the whole scheme of this Act is that the accused will never be discharged. The words 'must be groundless' have been put in this section 207A and section 253 had been deleted so that there can be no discharge in any warrant case based on police report. It is impossible now. I, therefore, submit that the House should see the amendments which I have tabled and it would be well advised to accept at least some of them and to make this clause 207A at least tolerable and acceptable.

1 submitted last time also another point. The hon. Home Minister had said in his reply that he will make an arrangement so that copies are at least given to these persons some days in advance. Finally the amendment was not accepted when I put in an amendment in regard to 173. Now also, I have got an amendment in 207 that copies must be given at least ten days in advance. Am I making too great a claim: The hon. Home Minister has very kindly agreed to give copies to the accused and I am glad he has made this provision though I know in many cases this provision will not only be unnecessary but distinctly bad. Only fifteen per cent. are literate in India and one can assume there are fifteen per cent. literates in jails. Will you give them iron safes for keeping the copies? What will be the use? In every case the accused is not defended by a counsel. Will you provide a counsel in every case—warrant or other cases. You give a copy to those who want a copy, who will require a copy and who will make use of a copy. What is the use of giving a copy to all illiterate accused who are undefended? What will they do with them? It is only in certain cases that copies will be required. The hon. Home Minister has been very pleased to grant copies free of cost to all accused and I welcome this and congratulate him upon this.

Mr. Deputy-Speaker: There are some old offenders who do not want a lawyer to defend them. They defend themselves.

Pandit Thakur Das Bhargava: I am referring to giving of copies. What is the use of giving them these copies unless you give in advance? If you give the copies before ten days, the counsel for the defence will study them, then find out certain points for cross-examination. You give it there and then. I do not know if it makes for speed or delay. I submitted this and the Home Minister said that he will accept it. But, he has forgotten because he has too many things in his mind. He says that he cannot accept anything.

Shri Gadgil (Poona Central): Restrict it to seven days.

Pandit Thakur Das Bhargava: I submitted that according to article 22 of the Constitution, the accused is entitled to know as soon as possible the grounds of his detention or arrest and the accused has also the fundamental right to be defended by counsel. I raised this point even at the time when the Constitution was being framed. I said, you give the full right to cross-examine. Dr. Ambedkar said that this is an elementary thing and that defending includes cross-examination. I submit that this truncated right of cross-examination is not full right to cross-examination. We are really going against the Constitution in giving a truncated right of cross-examination.

Shri Gadgil: How many times he will have the right of cross-examination?

Pandit Thakur Das Bhargava: At least a reasonable opportunity must be given. If one witness says one thing and I know that the other witness is not going to corroborate him, I should be able to cross-examine the other man. If there is not that right, Shri Gadgil knows that it is not full cross-examination. For how many years has section 256 been on the statute-book? Has any person raised any objection so far? You say, speed. On the very day section 256 is availed of, you can allow defence witnesses to come. There is no question of adjournment at all. You want to take away section 253 and see that no person shall be discharged. Either send a man to jail or acquit him; there is no third choice.

Shri Gadgil: No, no.

Some Hon. Members: No, no.

Pandit Thakur Das Bhargava: I shall stand corrected if any hon. Member can point out any provision in this regard that now in warrant cases on police report there can be a discharge. There can be no discharge in a warrant case. In the commitment stage also, only if the case is absolutely groundless, there can be discharge.

Shri U. M. Trivedi: Shri Gadgil does not know criminal law.

Pandit Thakur Das Bhargava: No, no. I have great respect for him.

Shri Gadgil: At least I know criminals very well.

Pandit Thakur Das Bhargava: I was submitting that this provision for cross-examination of witnesses is even now very unsatisfactory. I want that all witnesses to the actual commission of the offence, whom the prosecution wants to be produced at the trial, ought to be produced here: not a man less. This section 164 and other things must go away. I have no time; otherwise, I would have given examples to show how this provision is liable to be misused. Suppose there is only one man who has seen the occurrence, what happens? He will be examined under section 164. What will be there for the commitment court and the accused. He will be committed unheard. Section 164 statement is the only evidence against him. Still he will go to the Sessions Court. I have no time to deal at length with all these points, points which are obvious to me, but which are not obvious unfortunately to Shri Datar. So far as cross-examination was concerned he said on a previous occasion, we have given the right to the Court to put questions and cross-examination is included in that right. He forgot that under section 165 of the Evidence Act. the Court has the absolute right to put any questions, relevant and irrelevant. You kindly look into the matter and make a provision which will be worthy of this country, by which a person can be able to get a discharge in the committing Court.

I have got many other amendments. As there is no time, I shall leave them to the discretion of the House and I will not waste the time of the House. But, in regard to the procedure in warrant cases, I must submit a few points. I am saving my time by not speaking on these amendments to be able to speak on the warrant case procedure. My difficulty is this. In the days of the British, all the lawyers and the entire country was given to understand that a charge can only be framed on the basis of the prosecution evidence which was before the Court. As you know, under section 254, if there is a *prima facie* case, a charge was framed. If there is no evidence on the side of the prosecution or if the Court disbelieved it, a discharge could be earned under section 253. Now, according to the present provision, it is not the prosecution evidence which is the basis of a charge; but the accusation made by the police in the challan papers is the basis of the charge. This is entirely wrong in principle. All the controversies have arisen from this. My humble submission is this. Unless and until....

Mr. Deputy-Speaker: What the hon. Member suggests reduces itself to a summons case procedure. Practically

[Mr. Deputy-Speaker]

in summons cases, the accused appears, the case against him is given to him, he is asked to state his and the case starts. Opportunity is given to him to cross-examine the prosecution witnesses. Then, he can bring his defence evidence and so on. All the evidence recorded in the police diary is given to him. He is asked to say whether he is guilty or not guilty and then you proceed to charge.

Pandit Thakur Das Bhargava: I quite agree with you. One simple question, guilty or not is asked. Even in the Sessions Court, this question is asked. There is no hearing. He may be cross-examined by the Court. The Court will be at liberty to put any question, and he may be forced to say anything not only to explain the circumstances against him. But independently, the Court has the right to cross-examine. I know that this provision will not be abused. But, if the Court so chose, it is liable to be abused. In warrant cases, as soon as the accused goes there, the Court will see whether what is contained in the police papers and that material is sufficient to charge him and the Court will at once charge him without hearing a single witness. After that is done, the prosecution evidence will be recorded and then the defence evidence will be recorded. There is an end of the matter.

Mr. Deputy-Speaker: That means, asking the accused to disclose his case, if he does not disclose, put questions to him and then on his own admission convicting him. At any rate no question is put in a summons case. It is open to ask or not. But, such an examination may mean you bring out matters and put question which the accused knows he need not answer. He unwittingly says something and you use it against him in the prosecution.

Shri N. C. Chatterjee: Even things which cannot be proved by the prosecution could be brought out in that examination.

Pandit Thakur Das Bhargava: I am submitting that the procedure was like what you have pointed out. You ask, what is your defence. After the accused says that this is the defence, the prosecution witnesses come and prove that the defence is wrong. The prosecution witnesses will make statements with a view to annihilate the defence version. That is the crux of the arguments of Shri Frank Anthony who was very angry. He was right when he said that it is entirely wrong to ask the accused what his defence is and then bringing the prosecution witnesses and then the defence evidence. Therefore, we have been rightly insisting that on the ground of speed....

Mr. Deputy-Speaker: The hon. Member says that every opportunity should be provided as in a summons case except that the accused can be examined.

Pandit Thakur Das Bhargava: My hon. friend the Home Minister is not here. He said in this House in these very words: I do not know what is the difference between a summons case and a warrant case. This is an old pattern. of 60 or 70 years. Why then, this double or treble cross-examination, he said.

Shri N. C. Chatterjee: He said, I would love to be tried under such a procedure.

Pandit Thakur Das Bhargava: Yes. He said if he were to be tried, he would like to be tried as in a summons case. The defence lawyers in the House and the public outside including Judges think otherwise. That is the opinion of all except the Home Minister. I think this is a wrong way of putting things. I think the Home Minister must look at these things from the point of view of the accused. He has neither been an accused nor a practising lawyer in a Sessions Court. That is my misfortune.

There are many other provisions which I would like to refer to. I leave those sections to their fate. But, I want to submit for your consideration one very important point. Today, if there is a private complaint, the procedure is entirely different. In a private complaint case, there is double cross-examination under the Code. There is section 253 and the accused can earn his discharge. There will be a charge only on the basis of the prosecution evidence. The entire set of these sections is there for a private complaint case. Similarly, in a commitment case, so far as a private complaint is concerned, all the previous provisions are there.

Mr. Deputy-Speaker: Therefore, the hon. Member suggests if a person wants to get the accused convicted on a private complaint, he must add a congnisable offence and induce the police to charge-sheet on that offence also.

Pandit Thakur Das Bhargava: Ordinarily, the private complaint comes in sessions cases, only when the complainant has failed to convince the police of the truth of his case; then only, he comes in with a case of this nature. Then, he is given so many rights, first of all, those rights, and then these rights. Now, what do we find? In article 14 of the Constitution, we find there is equality of protection. My hon. friend Pandit K. C. Sharma has elaborated that point already. So, I will not elaborate that. But I would submit that there must be some uniformity in law. What was the difficulty in the previous law? The previous law was uniform. Why do you want to change it now? In whose interest do you want to change it? What is the difficulty that you have felt, that you want to change it? There is no reply to that. I wait for a reply still. There is no reply that the difficulty was this or that except perhaps that you want that the police should succeed in every case. This is something which is entirely wrong. We know the percentage of cases, where there is conviction at present; there are about fifty per cent. convictions in warrant cases. Perhaps, the hon. Home Minister wants that the percentage of convictions should reach the figure of eighty per cent., which it was not so beforehand. Why I am speaking with so much feeling is because I do feel that if this Criminal Procedure Code comes into practice, many innocent persons will be sent to jail in warrant cases, that many more will be sent to jail than now....

Some Hon. Members: No, no.

Pandit Thakur Das Bhargava: .... because the cross-examination right will not be there. I can accept the 'no', since I cannot prove my case now; since he cannot also prove his case, he can certainly say, no. But there is no doubt about it, because the right to cross-examine is not there; the entire evidence from the witnesses will not be brought out, and therefore there will be difficulty to the accused. I wish that some of us were tried in warrant cases, and then we knew that when a witness......

Mr. Deputy-Speaker: I would ask the hon. Minister one thing in this connection. If speed is one of the main considerations, instead of saying that a charge may be framed, and thereafter an opportunity will be given to cross-examine witnesses, have the present procedure of allowing cross-examination at the earlier stage, and of examining such other witnesses as may be necessary, only with the permission of the Court, after the charge is framed. I am only suggesting this as an alternative. Instead of framing the charge straightaway and asking the accused what he has to say, so that the prosecution may build up its case, and by his own mouth, the accused will be convicted, instead of allowing that, if speed is one of the main considerations, let the cross-examination be done at the earlier stage, and let the Court come to a conclusion as to whether the accused ought to be discharged or not; if the Magistrate comes to the conclusion that a charge has to be framed, then since the accused had an opportunity to cross-examine at length at the earlier stage, the Magistrate may, if

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he thinks necessary to amplify or clarify a particular issue, allow in his discretion one or two persons to be brought in once again and be cross-examined.

Pandit Thakur Das Bhargava: I am very glad that you have taken this view, because according to the Constitution....

Mr. Deputy-Speaker: What I suggested now is this. In a warrant case, it merely reduces itself to the existing procedure. But what is being sought to be done is this. In the interests of speedy administration of justice, you say, decide on the police report, and whatever other statements are there; at the earlier stage, no witnesses need be examined. On the basis of the police record and the police statements alone, and with such examination of the case, as the Magistrate might think necessary, he can discharge the accused, or he can frame a charge. It is only after the charge is framed that the witnesses for the prosecution will be examined, and the accused shall have the right of cross-examination, and then he will lead his own defence. This is the procedure that is sought to be introduced now. The objection that is taken to it is this. Before the prosecution comes out with its own evidence, except perhaps with what is recorded in the police diary, and some other statements that might have been recorded under section 164, the accused is asked to explain his case, and the Court can elicit certain answers also from the accused; it may not be by way of cross-examination, but the Court can put him questions and elicit some answers; and the accused will be obliged to answer them, and unwittingly he may say something on account of which the prosecution might develop its case suitably. Cannot this procedure be reversed or reverted? Instead of allowing a cross-examination after charge, let the cross-examination be before charge, and let there be no cross-examination after charge, except in cases where the Magistrate thinks that such cross-examination is necessary.

Dr. Katju: Will that be accepted?

Mr. Deputy-Speaker: I think that is much better than this.

Dr. Katju: If that is acceptable to the House, I have no objection....

Mr. Deputy-Speaker: That is preferable to this.

Pandit Thakur Das Bhargava: I am only saying that I am very glad..

Dr. Katju: You need not be glad; let me just complete what I have to say. Either I am on my legs, or my hon. friend is on his legs.

Mr. Deputy-Speaker: The hon. Member Pandit Thakur Das Bhargava will kindly resume his seat.

Dr. Katju: That was the original proposal in the Bill. But the Select Committee went into it, and 49 Members were there, very eminent members of the profession, and they said that there should be an unrestricted right of cross-examination after charge. Secondly, they said—I am only repeating what they said—that the whole prosecution case invariably depends upon the investigation, and upon the statements made before the police, which I have always been calling throughout here as diary statements. The accused sees the diary statements, and those diary statements contain the police case against him; let the Magistrate see whether on those diary statements, there is a *prima facie* case against the accused or not. So far as the question of examination of the accused is concerned, the Select Committee was of the opinion that it would not be any lengthy examination. It would be of the form: 'Are you guilty, or are you not guilty? Have you committed this offence, or have you not committed this offence?' Of course, for the sake of argument, we may contemplate here theoretically that the Magistrate will enter into all details and put him all sorts of questions. But I tell you, no Magistrate would do it. The Select Committee was very anxious that an opportunity should be given to the Magistrate to say that on those diary statements and other statements which may be there, there is no case whatsoever against the accused, so that the accused may be saved the misery of a long trial; otherwise, the case should begin. Please remember that under the current procedure, or the present procedure, the accused sees the diary statements only when the witness goes into the witness-box. And the Select Committee thought that it was a great boon or a great advantage conferred upon the accused that he had all those papers supplied to him seven or eight or even ten days before the trial, and therefore, it was no use further giving him the right to cross-examine. Otherwise, I am personally very happy....

Mr. Deputy-Speaker: It is no doubt an advantage to the accused that he has all those papers supplied to him.

Dr. Katju: May I submit one more thing? In all these discussions, we should never forget the poor Hamlets, namely the witnesses; they should be as little inconvenienced as possible. After all, they come here to assist the administration of justice, and they should not be asked to come once, twice, thrice and four times.

Shri Dabhi: If Government accepts my amendment No. 9, then everything will be all right.

Mr. Deputy-Speaker: It is not that we are thirsting for want of words or expressions. We can put it in any language, if the substance is agreed.

There is one other point. Does the hon. Home Minister feel, after so much of experience of the police handling these cases, that they will frame their police diary and their records in such a manner that even by merely looking into them, it is likely that....

Dr. Katju: As I said, I am expressing my own opinion in the light of my experience. It is quite possible that your experience may be quite different. But I have no doubt whatsoever that after looking into the police diary statements, the accused will get the clearest notion as to what the police case against him is.

Mr. Deputy-Speaker: But he is mum. He cannot cross-examine.

Dr. Katju: I am not saying anything about his keeping mum. What I am saying is that after reading the police diary statements, he gets to know what the police case against him is....

Mr. Deputy-Speaker: That is all right.

Dr. Katju:....because it is on the basis of the diary statement that the police sends a charge-sheet, and in that charge-sheet, they set out what their case against him is. That is all.

Mr. Deputy-Speaker: The only point is this. Why should a charge be framed merely on the basis of the police diary?

Dr. Katju: No, no. The charge-sheet does not mention the names of the witnesses or what one witness said or the other witness said. It is the diary statement which gives all these.

Shri U. M. Trivedi: On a point of information. You are putting a question on charge, and the learned Home Minister is answering the question of charge-sheet. That means the police report?

Dr. Katju: I am using the word 'charge-sheet' not in the sense of the charge framed by the Magistrate; but I am referring to the charge-sheet, to the report made by the police to the Magistrate, when they are submitting their case.

Mr. Deputy-Speaker: There cannot be two opinions now on the point that the accused should be enabled to get copies of the diaries which form the basis of all attack against him. Therefore, to that extent, the accused has an advantage today.

Dr. Katju: May I say one thing more? Can you conceive of a case where the prosecution evidence rendered at the trial is a great departure from the diary statements? Can that case possibly succeed?

Pandit Thakur Das Bhargava: Many cases have succeeded.

Dr. Katju: I do not want to interfere with my hon. friend Pandit Thakur Das Bhargava....

Pandit Thakur Das Bhargava: Very kind of you.

Dr. Katju:....because there are many other hon. Members to speak.

Mr. Deputy-Speaker: I do not know what is the experience of the hon. the Home Minister. Leave alone the other clauses where there is a different procedure. The benefit of doubt ought to be given in favour of the prosecution so far as committal cases are concerned. I mean cases where every care is taken to throw it out by cross-examination and not allow a charge-sheet to be framed. Nobody waits until a charge is framed.

Dr. Katju: I do not know. Your experience and my experience may differ. I believe there are very few cases which are thrown out before the charge is framed.

Shri Raghavachari (Penukonda): No, no.

Pandit Thakur Das Bhargava: There are a very large number of cases.

Dr. Katju: Everybody says 'No'.

Mr. Deputy-Speaker: Let me put one more question. Does the offer stand that instead of opportunity being given after the charge, the opportunity is given in the first instance? If the House is agreeable, is the hon. Minister willing to accept it?

Dr. Katju: That is what was in the original Bill.

Shri Tek Chand: Clauses 36 and 37 of the original Bill.

Dr. Katju: My own anxiety all through has been that there should be one full cross-examination. The second cross-examination may be subject to the discretion of the Magistrate so that the witnesses may not come. The Select Committee said that that one full opportunity should be given after charge.

Mr. Deputy-Speaker: If the House now feels......

Dr. Katju: . . . that it should be before, I have no objection.

Pandit Thakur Das Bhargava: I am very glad that you have been pleased to ask the hon. Minister to kindly consider the wishes of the House in this matter and he is agreeable to it.

Mr. Deputy-Speaker: That is the original proposal.

Pandit Thakur Das Bhargava: I have submitted two or three points and I have a few more. The first is this I beg to ask very humbly the hon. Minister, when he says that these statements under section 162 will not be used for any purpose whatever except that of cross-examination, is he not using all these papers for the purpose of framing a charge?

Mr. Deputy-Speaker: Now, he is agreeable. Why unnecessarily stress that?

Pandit Thakur Das Bhargava: The point is this. All these statements before the police should not be utilised for the purpose of prejudicing the Court against the accused.

Mr. Deputy-Speaker: The hon. Member knows that under the Code, copies of the diary ought to be sent to the Magistrate. They are always with him from the earlier stage of the proceedings. Does the hon. Member suggest that the Magistrate does not know about them?

Pandit Thakur Das Bhargava: They are only sent to the Police.

Mr. Deputy-Speaker: No, no.

Pandit Thakur Das Bhargava: According to a particular section—172—the Court can call for it from the police officer.

Shri U. M. Trivedi: Ordinarily it goes to the Magistrate.

Pandit Thakur Das Bhargava: Never. Only under section 172 the Court can call for it.

Shri S. V. Ramaswamy: Only statements recorded in the inquest are sent to the Magistrate; other statements are not sent.

Pandit Thakur Das Bhargava: Inquest under section 174 is not police diary as such.

Shri N. C. Chatterjee: Section 172(2) of the Code of Criminal Procedure says:

> "Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial".

Mr. Deputy-Speaker: He is getting that. What is the objection? If it is not automatically sent, he can send for and look into it.

Pandit Thakur Das Bhargava: But the Court cannot utilise it for any purpose. Police diary is quite different thing from statement under 162. The latter could not be used for corroboration of the prosecution witness.

Now, the hon. the Home Minister has made this law. It will first of all be used by the court and the Court will be prejudiced while the charge is framed on the basis of those statements. I am indebted to my friend, Mr. N. S. Jain, for this; he is perfectly right when he raised this objection.

I was submitting another point. You have been pleased to ask the Home Minister about it. There is an article in the Constitution, article 20 (3), which says that no accused shall be convicted out of his own mouth. Now, under these sections, the accused can be examined and cross-examined. He can be examined at pleasure. The simple question will never be put—are you guilty or not? This is the way of putting the question, but the hon. the Home Minister's question will be: what reply do you make to the allegations in the police statement? My humble submission is it offends against article 20(3) of the Constitution.

Now, Sir, I was very sorry I made a mistake in saying that the warrant procedure had been brought to the level of summons procedure. In a summons procedure, the only question asked of the accused when he comes into the dock is, first of all, show cause why you should not be convicted. He need not make a statement of facts. Here in the warrant case he will be asked to make a statement of facts. It is topsy-turvy.

My humble submission is that all these defects which I have pointed out—some of them by my friends also—, unless these hurdles are crossed, we are not justified in thrusting this Bill down the throats of the country, when the country has not been able to express its opinion on all these provisions. What did the Select Committee do? They refused to consider other amendments in respect of which no opinion was taken. The country never agreed to the truncated commitment procedure. The country said—either commitment procedure or no commitment procedure. The country never said that such a procedure in which a person cannot be discharged should be adopted. In the original Bill, the hon. the Home Minister gave two occasions for cross-examination. A person could say, to start with, 'All right. I do not cross-examine. I reserve it after the charge' and afterwards he could say: 'All right. I will cross-examine now'. Under the provision made by the Select Committee, he will be allowed only one cross-examination. Now, if the hon. Minister is allowed to have his own way, I know that a judicial

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mind would never agree that the accused should not be given such a right. He should have the right as proposed in the original Bill, though I am not satisfied with those provisions. The double right of cross-examination must be there. But the difficulty is..

Mr. Deputy-Speaker: I am afraid I must give opportunities to some other hon. Members also.

Pandit Thakur Das Bhargava: Let me finish my last prayers to the hon. Minister. The Home Minister is too good. He came with the original Bill under which there was no commitment. Then the Select Committee asked him to take away the right of cross-examination. We requested him to kindly agree to cross-examination. He has agreed. Similarly I would request him to allow the double right. The double right was there—at least one and a half times in the amending Bill. The Select Committee asked him to give only one right. You have been pleased to express our wishes. I would only request him to kindly agree to the wishes of the House and see that in warrant cases, there is some semblance of justice. Otherwise, if cross-examination is not allowed, it is a travesty of justice.

Pandit Munishwar Datt Upadhyay: It should be postponed.

Shri N. S. Jain: I want only one minute. I would suggest something. I only wish to say that as far as warrant procedure is concerned, it is something which has got to do with the Constitution itself. I might be wrong in this view, but with due respect to the Home Minister, I am submitting that it should be re-examined in the light in which my friend, Pandit Thakur Das Bhargava, has explained it—that these section 161 statements are hereby to be used for the framing of the charge which, already we have said under section 162, shall not be so used. So I think it will not be difficult to postpone the consideration of this clause till tomorrow and then just examine this point.

Shri R. D. Misra: On a point of correction. I referred to the statements of Chief Justice Mahajan, Mr. Justice S. R. Das and the hon. the Home Minister's circular. Those are all recorded in group C and not in group D supplied to us.

Shri N. C. Chatterjee: I think all sections of the House are cognizant that there is a good deal of delay in criminal trials in India and it is assuming serious and phenomenal proportions and really our administration of criminal justice is being brought into disrepute, and we should make a conscious effort to eliminate delay in criminal trials. It is quite right that one of the causes was, to a large extent, commital proceedings, although that was not the main malady. The main malady has been the inefficiency of the investigating machine and the preoccupation of the magistracy in diverse duties. The latter cannot concentrate on doing their Judicial work. Dr. Katju himself has frankly admitted in one of his statements:

> "Delay in criminal trials is very often due to the procrastination in police investigations".

That has been the view taken by very eminent and competent men.

The Government of Bihar has said:

> "If police force is not efficient it is not the fault of the Court or the Criminal Procedure Code. It will take a long time before detection can be possible by the police. Their whole training has been different."

Now, Sir, what I am pointing out is this. I can understand Dr. Katju's original Bill. But, with great respect to the Members of the Joint Committee I have got to express my thorough disagreement with the views of the Committee and the recommendations they have made regarding new clauses 29 and 35. Look at clause 29. Clause 29 provides duality of committal proceedings for cases instituted on a private complaint and those instituted on a police report. Why this discrimination? Apart from constitutional point —I have not considered that point. I cannot say off-hand whether it would be repugnant to the fundamental rights guaranteed under the Constitution. If that is so, then it is a serious matter —it is illogical, it is inconsistent and no reasons or justification has been given. Dr. Katju's original proposal for abolition of committal proceedings was much better, according to me. Of course, I strongly opposed this procedure of simply sending a man up on police diaries, police statements and certain other things. Even with some modification that was much better than the dual procedure contemplated here.

Mr. Deputy-Speaker: Even in the original Bill there is the difference between these two types of cases.

Shri N. C. Chatterjee: There was no difference in the original Bill.

Dr. Katju: There was difference.

Pandit K. C. Sharma: Then, that too was bad.

Shri N. C. Chatterjee: What I maintain is, abolition of committal proceedings was much better than the peculiar differentiation of committal proceedings and the present turncated form it is taking now. Now, look at clause 35. Clause 35 is also contemplating two different procedures. I would ask the House to seriously consider Pandit Thakur Das Bhargava's amendments numbers 125 and 126. If you look at his amendment number 125, you will find he has recommended deletion of lines 11 to 13 on page 9. These lines are:

> "Provided that no statement shall be recorded under this sub-section of any person whose statement has already been recorded under section 164."

I agree with Pandit Thakur Das Bhargava that this proviso should be deleted. As a matter of fact it is not fair if you keep this.

Mr. Deputy-Speaker: That means the statement of whosoever has been recorded, he shall not be examined.

Shri Datar: If his statement had been recorded under section 164.

Shri N. C. Chatterjee: That is actually my point.

Mr. Deputy-Speaker: The hon. Home Minister said yesterday that in case of eye-witnesses the accused will be given a right to cross-examine. But, he has evidently overlooked this proviso to sub-clause (4) which says that the statement of whosoever has been recorded under section 164, he shall not be examined again.

Dr. Katju: I remember this very well. What I said yesterday was that, according to this provision, the man who has already been examined under section 164, he shall never be produced and witnesses whose statements have not been recorded, they shall be produced before a Magistrate. The Joint Committee Report says that these men who are so produced shall be examined-in-chief, but their cross-examination will not be permitted though the Magistrate may put any questions he likes. The amendment is that these witnesses who are in flesh and blood before the Magistrate, should be allowed to be cross-examined. The amendment does not say anything about the witnesses who are not produced at all for the reason that their statements had been taken already under section 164. I am only limiting my saying to the cross-examination of those witnesses who are actually physically produced before the Magistrate.

Mr. Deputy-Speaker: That is clear. The hon. Minister is not committing himself to any particular course other than allow cross-examination of those witnesses whom the police choose to produce as connected with the crime or as being eye-witnesses. Is it not open to the police to withhold all of them and take only statements under section 164?

Dr. Katju: Of course, it is.

Mr. Deputy-Speaker: Therefore, that right of cross-examination becomes useless, negatory and infructuous.

Dr. Katju: I am not going into the merits of it. I am only trying to explain the provision as it stands. If the House is of opinion that every single eye-witness, whether he has been examined under section 164 or not, should be brought before the Magistrate, it can be accepted. That is a matter of opinion. But, the Bill makes that distinction whether for good reason or bad reason.

Shri N. C. Chatterjee: What I am pointing out is this. If you kindly look at sub-clause (4), it says:

> "The Magistrate shall then proceed to record the statements of the persons, if any, who may be produced by the prosecution as witnesses to the actual commission of the offence alleged......"

Therefore, the object was......

Dr. Katju: You must also read the proviso which says: "Provided that a man whose statement has been recorded under section 164, need not be produced."

Shri N. C. Chatterjee: Quite right.

Mr. Deputy-Speaker: The hon. Member takes exception to that proviso.

Dr. Katju: I quite appreciate it.

Mr N. C. Chatterjee: The reason behind it is that the most material witnesses should be produced at the earlier stage. Now, sub-clause (5) says:

> "The accused shall not be at liberty to put questions to any such witness......"

We object to this strongly. In our criticism we said that it would be a 'dummy farce'. It will be like a pantomime if this thing happens.

Shri S. V. Ramaswamy: You see the amendment to that.

Shri N. C. Chatterjee: I know that. You are not a Deputy Minister as yet

Now, sub-clause (1) says:

> "When, upon such statements being recorded, such documents being considered, such examination (if any) being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that the accused should be committed for trial......"

Therefore, Sir, it contemplates the presence of the accused person, the presence of his lawyer, examination to be recorded in his presence and an opportunity being given to him of a hearing. We were saying that this hearing would be a farce and therefore, it is only right that this sub-clause 5 is deleted.

Now, the Government is deleting sub-clause 5 and, therefore, the accused should be now at liberty to put questions so that on cross-examining at this stage, if necessary—I am not making his representation after cross-examination—he must say: "Discharge me". What I am pointing out and asking Dr. Katju earnestly to consider is this. If the prosecution wants to make this safeguard being given for the protection of defence of the accused: if this safeguard is sought to be made illusory or useless, they can do so by recording statements of material or eye-witnesses under section 164. Then it is not only that this section would be illusory, but the other thing will happen, that they cannot cross-examine him and make any effective statements.

Mr. Deputy-Speaker: The hon. Member wants that the Home Minister should go one step further.

Shri N. C. Chatterjee: That is what I am submitting.

Dr. Katju: I understand it.

Mr. Deputy-Speaker: There is no labouring the point. He has already conceded that mere statement alone was not enough, but, in accordance with the wishes of the large section here, the accused must be given a right to cross-examine those witnesses who are eye-witnesses to scene. The only further question is whether it is open to the police to withhold them, or are they bound to bring them. That controversy stands. Now, let us hear the hon. Minister.

Shri N. C. Chatterjee: One point more, Sir. I have made a suggestion in amendment number 327 which says:

> "In page 12,—*after* line 19, *add* 'Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined, or recall any witness for further cross-examination' "

Sir, it is a very valuable right. Sometimes it is absolutely impossible for any cross-examining counsel to cross-examine a man on all points. After a stage, it may seem that it is material to cross-examine him and in that case it will be very vital.

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Mr. Deputy-Speaker: Even in civil cases, if the Court likes, it may permit cross-examination later on. Is it not so? Even in a Civil Court and a Criminal Court, when a witness has been cross-examined, can he not be recalled for the purpose of putting some more questions to him now?

Shri Kasliwal (Kotah-Jhalawar): Under clause 35, it is not so.

Shri N. C. Chatterjee: One other submission for the hon. Home Minister's consideration is this. It is impossible to visualise it. You cross-examine Z and when Z comes, the investigation officer is with him at this stage. I cannot possibly visualise the object of that man being put in the box. A proviso of this kind was in the Bill and then it was dropped. The recent ruling of the Supreme Court—and you can look through the proceedings of the Parliament in order to find out if there was a provision made in the Bill and then that was dropped. That means that Parliament in its legislative judgment has expressed its dissent and therefore negatived it. It may be argued that that power is gone now that the Legislature or Parliament has negatived that proviso.

Shri Raghavachari *rose—*

Mr. Deputy-Speaker: I wanted to call the hon. Home Minister at four o'clock. Hon. Members must themselves adjust and I find it difficult to pull up any hon. Member when he is on his legs—I said not more than half an hour, but hon. Members have taken more. I find it very difficult if hon. Members go on standing up.

Shri Raghavachari: I have only one point to make.

Mr. Deputy-Speaker: If it is only one point, I will request the hon. Home Minister to resume his seat.

Shri Raghavachari: Now that you have clarified the whole thing and the hon. Home Minister has agreed that he will consider the right of cross-examination or further cross-examination of a witness in a warrant case, subject to the discretion of the Court permitting it, I wish to say that it is some concession which is very much to be valued.

Mr. Deputy-Speaker: Cross-examination before charge and with the discretion of the Court after charge, such of the witnesses as it may allow.

Shri Raghavachari: As is even now provided in the case of *de novo* enquiry the advantage for the accused to call witnesses, with the court's permission. The other point is this. The hon. Home Minister will kindly consider that under the proviso witnesses examined under section 164 should not be produced. Now he is inclined to omit the proviso.

If we get these two things, it will be a great advantage to the accused.

Dr. Katju: I may be repeating myself, but in justice to the Select Committee, I should like to make the posi-

[Dr. Katju]

tion clear and I shall take the two portions separately—(1) about the commitment proceedings and (2) about the warrant cases.

Mr. Deputy-Speaker: The amendment of section 251 was not thought of in the original Bill and only section 252 was sought to be amended in the original Bill. Amendment to section 251 has been introduced by the Select Committee.

Dr. Katju: Because they lay down a distinct procedure. Will you kindly allow me in my own way to explain this, because there has been some tendency of mixing up the two things.

My hon. friend Pandit Thakur Das Bhargava, pointed out that I have always stood for the abolition of commitment proceedings. That was my own view then and is even now today, and to do justice to the Select Committee, that was also their opinion. If you do not abolish the commitment proceedings, quite frankly, a great deal of the very reason for the old Bill disappears, because opinion is unanimous throughout India that commitment proceedings lead to great dilatoriness. As Shri Chatterjee said, they are coming up for ridicule and comment. The original Bill said that there should be no commitment proceedings but there was also a section in the original Bill that before the case went to the sessions, the statement of the prosecution witnesses—material eye-witnesses—should have been recorded on oath, so that it may be available for contradiction. I am not saying that it should be available for being used against the accused, but for the contradiction of the witnesses. We must be quite alive to the fact that in a criminal case, sometimes great pressure is brought upon the witnesses months after the trial and something happens. The original scheme was that all the material witnesses should be examined on oath either under the original section 164 or under the new proceedings, and when the case went up before the Magistrate, he would just be keeping it for one day and no more, for two specific purposes—firstly, for the purpose of finding out as to whether the accused had been supplied with all the necessary papers and copies and statements, and secondly, for the purpose of finding out where the case should go to, that is, whether it should be referred to the Sessions Court for trial or whether it should be tried by himself or should be sent to another Magistrate. He was not to prepare the charge at all; he was to prepare a draft charge, so that the Sessions Judge may have something before him before framing the charge.

When the Bill was before the House, before it went to the Select Committee. very strong criticisms were expressed of the section 164 procedure, and quite a lot of things were said against section 164. The Select Committee, therefore, said that recording of statements under section 164 was not desirable. The statements should be recorded in the presence of the accused, and instead of getting five material witnesses recorded by five different Magistrates to the great administrative inconvenience of the police and the investigating authority, it would be much better to have all these five statements recorded practically under section 164, but in the physical presence of the accused, in the physical presence of his lawyer, in the physical presence of the prosecution lawyer, so that the criticism which has been made that in the absence of the accused, the witness was openly coached and tutored by the police and his statement was wrongly recorded, would disappear. Having been recorded, they said "Let us go back to the original proposal, not cross-examination" The Magistrate then drafts the charge and there is an end of the matter, and I thought that that was practically the Bill. But the second thing which weighed with the Select Committee strongly was this. These papers, section 164 statements, diary statements, may not disclose the scintilla of evidence against a particular accused and it would be unfair to send that particular accused, whether it is one percent or five per cent, to a long sessions trial. Therefore, the Magistrate should be given the opportunity of finding out as to whether there is even a *prima facie* case disclosed in section 164 statements and the diary statements. If there is disclosure, then the man goes to the Sessions Court and he is sent up. A draft charge is prepared or framed against him. But if there is no scintilla of evidence, he will be discharged and saved of the botheration of a long sessions trial. They carried it out, and the moment they carried it out, you have the present formula, namely, if you are going to discharge a man, there is no question of a draft charge. You prepare a charge for the sessions trial. I think this is the first thing that is done: the charge is read out to the accused and the Sessions Judge always examines it, adds to it, alters it, and does whatever he may like. The procedure that has now come forward from the Select Committee was: no cross-examination. My hon. friend says this is travesty of a trial. Very well, I have no objection whatsoever because the information that I have—and my own experience is—practice may differ from counsel to counsel, from State to State, from Court to Court. It all depends. But in the Uttar Pradesn and I think in some other States, cross-examination before the Magistrate is a very rare. unusual thing. My friend Pandit Thakur Das Bhargava said that in the Punjab it is very usual. I accept it. In West Bengal, I do not know, but generally, it is very rare. Please remember one thing. To do the Select Committee justice and recognise their anxiety to favour the accused, the moment you give this right of cross-examination, and even though it may not be utilised or taken advantage of, section 288 will come into operation and the commitment Magistrate's evidence can be transposed and taken over on the sessions file. They thought that it should not be done. But, as I said, if the general opinion is that there should be the right of cross-examination, then my friend, Shri Datar has given a notice of an amendment, and let it be tried out. If there is a strong feeling that this should also apply to the statement of material witnesses who have already been examined under section 164, I have no objection. Let it be done. The result of that will be that the proviso will go. I have no objection. Then there is the end of the matter. So far as the sessions trial is concerned, opinion has been expressed that there may be witnesses, I think, in the warrant case, where you have a deferred cross-examination. That is the only objection that I have seen to the commitment proceedings. I have no objection. There is Shri Datar's amendment and you may put it to the vote without the proviso.

Shri Dabhi: I have an amendment to delete the proviso.

Mr. Deputy-Speaker: That will be done.

Dr. Katju: Yes. Now, I come back to the warrant case proceedings. I make a fair offer to the House. If the general opinion is that the procedure suggested in the original Bill was desirable, then, I leave it to the House. because the original Bill said that there should be full cross-examination before the Magistrate and a sort of discretionary cross-examination by the Magistrate. That was the original thing. But I do submit that the Select Committee has suggested a good thing. I would ask the hon. Members to prefer it, because in the course of the discussion of this section. I came to know that there is very little sympathy for the prosecution and no sympathy at all for the witnessss. The great demerit of the proposal about all these successive appearances is that the witness has to come times without number. When the Select Committee was dealing with that, we thought that there are the papers and that the accused has been apprised of them. The House may be aware, and I believe Shri N. C. Chatterjee will bear me out, that there is a section which says that the Magistrate may alter a charge in the course of the trial as many times as

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he likes. Therefore, he frames a sort of charge and starts the case. Cross-examination begins. Shri Chatterjee has given notice of an amendment which I am prepared to accept. That amendment is, in order to ensure a full and fair cross-examination it may be adjourned or deferred for the time being when one or two witnesses have been examined. Secondly, it may be left to the discretion of the Magistrate to allow the accused to send for the witness. When he enters on defence, he may say, "I want to cross-examine the prosecution witness," and that is what we call the third right of cross-examination.

I think many of the Magistrates—I am talking of Uttar Pradesh particularly—in warrant cases, frame their charge after examining two or three witnesses. They say to the accused: "The charge is framed; do you want to cross-examine these witnesses who have already been examined?" Then come the rest, the witnesses, and the thing flows.

Shri R. D. Misra: The material witnesses are examined.

Dr. Katju: There is no question of material witnesses. If it is a case under section 323, 325 or if it is a counterfeit coin case, one or two witnesses are examined. Charges are framed.

Mr. Deputy-Speaker: Very often, the Magistrates take it as a case of discharge, in which case it goes back and comes back. If a charge is framed, there is only a question of acquittal.

Dr. Katju: That is rare, but sometimes, in fairness to the accused, that is also done. A charge is framed, and if the accused is not guilty, he will be acquitted. If there is a case of discharge, there may be an application by any private party. Shri N. C. Chatterjee said: "Look at this; there is a vast difference between a private complaint and a public complaint." I have said times out of number that the great difference that weighed with me throughout these proceedings is that in the case of a public complaint or a police complaint, there is a general diary; there is the investigation and that is of help in the case. But in the case of a private complaint, there is no such police investigation, no police diary. Therefore, the old procedure is right. My hon. friend Shri Tek Chand, who is not here, said—

Mr. Deputy-Speaker: He is here.

Dr. Katju: I beg your pardon

Mr. Deputy-Speaker: Whoever is not in his seat is not generally taken notice of

Dr. Katju: He said something about section 14. I do not know whether he has tabled a motion about it. But we thought that hundred rupees was very insignificant. We have got to raise it. I was rather astonished when he said eloquently that it is false, or frivolous or vexatious.

Shri Tek Chand: False and frivolous, or, in the alternative, frivolous and vexatious.

Dr. Katju: What is the difference? Here is a section which has stood the test of time for the last 80 or 90 years. But here comes my learned friend with his anxiety to change the law. And what is the change? False or frivolous. False or vexatious. A case which is false and frivolous is bound to be vexatious. A case which is false and vexatious is bound to be frivolous. Therefore, I need not go into those matters and I leave the section 34 alone.

My humble suggestion to the hon. Members present here is that you accept the Bill on the lines I have indicated above, and the proviso should go. Shri Datar's amendment should be allowed. So far as the warrant case procedure is concerned, it is a very happy one, and it does full justice to all parties.

Finally, something was said about the examination of the accused. Let us take some realistic views. The Magistrates are not in the habit of digging into matters regarding the accused. They will just ask the accused: "Have you committed this offence? Have you beaten the man or not?" The answer may be, "No." If there is a third question, then, the accused says: "I reserve my defence, or I do not want to answer this." Finished.

Mr. Deputy-Speaker: In addition to the amendments that were moved yesterday, members have indicated to move the following amendments:

Clause 29: 446, 447, 1, 605, 453, 455.

Clause 35: 327, 456, 457, 458, 459.

Clause 29

Shri Frank Anthony: I beg to move:

(i) In page 9, line 1, *after* "furnished to the accused" *insert*:

> "at least seven clear days before the recording of the statements of any prosecution witnesses".

(ii) In page 9, *for* lines 4 to 13, *substitute*:

> "(4) The Magistrate shall then proceed to record the statement of all persons whom the prosecution intend to rely upon as their witnesses, provided that no statement shall be recorded under this subsection of any person whose statement has already been recorded under Section 164."

Shri S. V. Ramaswamy: I beg to move:

In page 9, line 14, *omit* "not".

Shri Dabhi: I beg to move:

That in the amendment moved by Shri Balwant Nagesh Datar printed as No. 545, *omit* the proposed proviso to sub-section (4).

Shri Frank Anthony: I beg to move:

(i) In page 9, lines 20 and 21, *omit* "and has, if necessary, examined the accused".

(ii) In pages 10 and 11, *for* lines 45 to 49 and lines 1 and 2 respectively, *substitute*:

> "(17) Notwithstanding anything contained in this Code, an enquiry under this section shall not be adjourned or postponed more than once merely by reason of the fact that any witness whose statement is to be recorded under sub-section (4) is absent or that anyone or more of the accused is or are absent, unless the Magistrate for reasons to be recorded, otherwise directs; it shall not be open to the prosecution to examine a witness, in the trial court, whose statement was not recorded as required by sub-section (4) by the committing court."

Clause 35

Shri N. C. Chatterjee: I beg to move:

In page 12, *after* line 19, *add*:

> "Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined, or recall any witness for further cross-examination."

Shri Frank Anthony: I beg to move:

(i) In page 11, lines 43 and 44, *after* "have been furnished to the accused" *insert*:

> "at least seven clear days before the examination, if any, of the prosecution witnesses".

(ii) In page 11, lines 48 and 49, *omit* "and making such examination, if any, of the accused as the Magistrate thinks necessary".

(iii) In page 12, *for* lines 20 to 22, *substitute*:

> "(8) Upon taking all the evidence referred to in sub-section (7) and making such examination, if any, of the accused, as the Magistrate thinks necessary, the accused shall then be called upon to enter upon his defence and produce his evidence; if the accused puts in

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any written statement, the Magistrate shall file it with the record."

(iv) In page 12, lines 25 and 26, *omit* "on his behalf (other than a witness already examined)".

Shri Raghavachari: The words "if any" occurring in line 5 at page 9, in sub-section (4) of clause 29 will have to be omitted.

Mr. Deputy-Speaker: "The Magistrate shall then proceed to record the statements of the persons, if any,"......

Shri Raghavachari: Yes. It will have to be omitted. I mean the words, "if any". Now that the proviso goes, the words 'if any' need not be there because all the persons who are connected with it will be examined.

Dr. Katju: It should remain as it is. There may be no witnesses at all. There is no harm in it. It may be a case in which there are, technically speaking, there are no eye witnesses at all. 'If any' means: a witness may be the most material witness but we are here thinking of eye witnesses.

Shri Raghavachari: Your anxiety is that there may be a case where there are no actual witnesses for the actual commission of the offence. The words 'if any' make the thing more troublesome......

Dr. Katju: What harm does it do? I am not fighting it but what is the harm? It only means witnesses, if any, shall be examined.

Mr. Deputy-Speaker: I appreciate the Home Minister's fears if the words 'if any' are removed. In every case there ought to be an eye-witness; otherwise, the case would not stand. Therefore, let it remain; there is no harm. Now I shall put the amendments to the vote of the House.

Shri Datar: With regard to 545, I would move an amendment......

Shri Dabhi: I have given notice of an amendment to remove the proviso.

Mr. Deputy-Speaker: Let Mr. Dabhi also have a say. He has given his amendment.

Shri Datar: I shall amend my amendment on his asking.

Mr. Deputy-Speaker: I shall put Mr Dabhi's amendment first and then amendment No. 545 as amended by Mr. Dabhi's amendment.

Shri Datar: The other amendments Nos. 547, 548, etc. are consequential.

Shri Dabhi: My amendment No. 27 is not consequential.

Mr. Deputy-Speaker: I shall put it also.

The question is:

That in the amendment moved by Shri Balwant Nagesh Datar printed as No. 545, *omit* the proposed proviso to sub-section (4).

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 9, *for* lines 4 to 13, *substitute*:

> "(4) The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also.

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 9, *for* lines 14 to 17, *substitute*:

> "(5) The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them."

The motion was adopted.

Mr. Deputy-Speaker: The question is.

In page 9, lines 18 to 19, *for* "When the statements, if any, have been recorded under sub-section (4)" *substitute*:

"When the evidence referred to in sub-section (4) has been taken."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 9, line 23, *for* "statements" *substitute* "evidence".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 9, line 28, *for* "such statements being recorded" *substitute*:

"such evidence being taken".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In pages 10 and 11, *omit* lines 45 to 49 and lines 1 and 2 respectively.

The motion was adopted.

Mr. Deputy-Speaker: All the other amendments are barred.

Shri Dabhi: My amendment No. 27 is not barred.

Shri R. D. Misra: No. 477 is not barred

Mr. Deputy-Speaker: Has he given notice of his amendment?

Shri R. D. Misra: Yes, Sir. It has been treated as moved and it is in the list.

Mr. Deputy-Speaker: Is the Government prepared to accept any of these?

Dr. Katju: No, Sir.

Mr. Deputy-Speaker: All right, I shall put them to the vote of the House. The question is:

In page 9, line 37, *for* "at once" *substitute* "within three days".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In pages 8 and 9, *for* lines 24 to 47 and lines 1 to 3 respectively, *substitute*:

"207. *Procedure in inquiries preparatory to commitment.*—The following procedure shall be adopted in inquiries before Magistrates where the case is exclusively triable by a Court of Session or High Court, or in the opinion of the Magistrate ought to be tried by such Court.

207A. *Procedure to be adopted in commitment proceedings.*—(1) (a) When in any proceeding on a police report, the Magistrate receives the report forwarded under section 173, he shall for the purpose of holding an inquiry under this section fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate for reasons to be recorded, fixes any later date.

(b) When in any proceeding instituted on a complaint or otherwise, the Magistrate orders the issue of a process for the attendance of the accused under section 204, he shall, for the purpose of holding an inquiry under this section, fix a date not later th[illegible] fourteen days from the date of such order, unless the Magistrate for reasons to be recorded, fixes any later date, and no process shall be issued unless the complainant files a list of witnesses in the Court.

(2) If at any time before such date, the officer conducting the prosecution, or the complainant or his pleader applies to the Magistrate to issue a process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(3) At the commencement of the inquiry, the Magistrate shall, when

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the accused appears or is brought before him, satisfy himself that the documents referred to in section 173 in police cases, and the copies of the complaint, of statements of the complainant and of witnesses recorded under section 200 and section 202 by a Magistrate or police-officer, of first information report, if any, and of all other documents or relevant extracts thereof on which the complainant proposes to rely, have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be furnished."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 29, as amended, stand part of the Bill."

The motion was adopted.

Clause 29, as amended, was added to the Bill.

Mr. Deputy-Speaker: Now, clause 35.

Shri N. C. Chatterjee: The Minister said he would accept my amendment No. 327......

Shri Dabhi: My amendment No. 9 is first.

Mr. Deputy-Speaker: Then, Shri N. C. Chatterjee's amendment No. 327.

Shri Datar: That is accepted by us.

Shri Dabhi: My amendment is No. 9. That has been acceptable. It is the same.

Shri Tek Chand: Shri N. C. Chatterjee's amendment is more comprehensive and clear. That may be put to the House.

Mr. Deputy-Speaker: I will put the comprehensive one whichever it might be. They are exactly word for word the same.

Dr. Katju: You may put to the House Shri N. C. Chatterjee's amendment.

Mr. Deputy-Speaker: Let the Opposition have an amendment. The question is:

In page 12, *after* line 19, *add:*

' Provided that, when the accusmay permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined, or recall any witness for further cross-examination."

The motion was adopted.

Mr. Deputy-Speaker: Any witness or witnesses: Any witness means any, singular includes plural. Amendment No. 327 is adopted. Then amendment No. 562 of Shri Sadhan Gupta. Is it accepted?

Dr. Katju: We will accept it.

Mr. Deputy-Speaker: The question is:

In page 12, *for* lines 23 to 31, *substitute:*

"(9) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing.

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purpose of justice."

The motion was adopted.

Mr. Deputy-Speaker: I shall now put all the other amendments to clause 35.

The amendments were negatived.

Mr. Deputy-Speaker: The question is:

> "That clause 35, as amended, stand part of the Bill."

The motion was adopted.

Clause 35, *as amended, was added to the Bill.*

Mr. Deputy-Speaker: I will now take up the less contentious clauses. Clause 26. Amendment No. 111. It has been moved. Hon. Members who have tabled amendments are not here. I think the rules must be amended. It should be said that if a Member is not present in the House at the time the amendment is put to the House, it will be taken to have been withdrawn. Otherwise, they will not care to be in the House. It is surprising that another man has to carry their children. Whether the Member is present or not, I am bound to put it to the House. The question is:

> In page 8, lines 6 to 8, *omit* "and shall be signed by the complainant and the witnesses".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

> "That clause 26 stand part of the Bill."

The motion was adopted.

Clause 26 *was added to the Bill.*

Mr. Deputy-Speaker: There are no amendments to clause 27. The question is:

> "That clause 27 stand part of the Bill."

The motion was adopted.

Clause 27 *was added to the Bill.*

Mr. Deputy-Speaker: Clause 28. The amendments are 476, 441, 113 and 544.

Shri R. D. Misra: Amendment No. 113 may be put to the House.

Shri Datar: We do not accept it.

Shri R. D. Misra: If you read it, he will accept, I think.

Mr. Deputy-Speaker: They must have looked into it already. Is there not any section in the Penal Code that civil offences need not be taken notice of? The question is:

> In page 8, *after* line 20, *add*:
>
> "(1C) In any proceeding whether instituted on complaint or on police report regarding offences punishable with imprisonment not exceeding one year or fine or both, if the Magistrate is of the opinion that the offence is of a trivial nature and the accused does not deserve to be punished with a fine exceeding fifty rupees he may pass a conditional order of fine as he may think proper to meet the ends of justice, and give option to the accused either to remit such amount of fine to the Court as mentioned in the summons or appear before the Court to stand his trial on the date fixed for it in the summons. If the accused remits such amount of fine on or before the date of hearing of the case, the case shall be disposed of as if the accused pleaded guilty and convicted for the offence."

The motion was negatived.

Shri Sadhan Gupta: Amendment No. 441 may be put to the House. Amendment 476 may be disposed of in a summary manner. I do not know whether the Government will accept amendment No. 441. They may accept.

Dr. Katju: This is all covered. We do not propose to accept.

Mr. Deputy-Speaker: I shall now put all the other amendmentss to clause 28.

The amendments were negatived.

Mr. Deputy-Speaker: The question is:

> "That clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 *was added to the Bill.*

Mr. Deputy-Speaker: We have already disposed of clause 29, and clause 35. Now, I shall put clauses 30, 31, 33 and 34. I shall first put the amendments to these clauses.

The amendments were negatived.

Mr. Deputy-Speaker: The question is:

> "That clauses 30, 31, 33 and 34 stand part of the Bill."

The motion was adopted.

Clauses 30, 31, 33 *and* 34 *were added to the Bill.*

Mr. Deputy-Speaker: The amendments with respect to these clauses have now been negatived, since the clauses are accepted.

Shri R. D. Misra: I have got amendment No. 64 to clause 33.

Mr. Deputy-Speaker: That has been put to vote and lost. I put all the amendments together a little while ago. The hon. Member has missed the bus.

Shri R. D. Misra: My amendment relates to clause 33.

Mr. Deputy-Speaker: I know that. I put clauses 30, 31, 33 and 34 to vote, and since they have been accepted, the amendments relating to these clauses have been lost.

Shri R. D. Misra: But you have not read out the amendment. If the complainant is represented by a pleader, why should he be present every day? My amendment reads:

> "Provided that where the complainant is represented by a pleader and he is present on his behalf the Magistrate shall not dismiss the complaint and proceed with the case in case the presence of the complainant is not necessary for recording his statement or for cross-examination."

It is a simple thing.

Mr. Deputy-Speaker: It is true that that is the amendment. But there is no time now for arguing particular amendments. If any hon. Member wanted his amendment to be put to vote separately, I would have put it separately and invoked the decision of the House on that. But now, it is too late. The amendment is lost.

Now, I come to clause 36. I shall put amendment No. 301 to vote.

The question is:

In page 13, *for* clause 36, *substitute*:

'36. *Amendment of section* 252, *Act V of* 1898.— In section 252 of the principal Act,—

(a) to sub-section (1), the following further proviso shall be added, namely:—

"Provided further that the Magistrate may permit only such cross-examination of the prosecution witnesses at this stage as he may deem necessary in the interest of justice.";

(b) after sub-section (1), the following new sub-section shall be inserted, namely:—

"(1A) In any proceeding instituted on a police report, the Magistrate shall before commencing the trial under sub-section (1), satisfy himself that all the documents referred to in section 173 have been furnished to the accused and if he finds that any such document has not been so furnished he shall cause the same to be furnished to the accused."; and

(c) in sub-section (2), before the words "The Magistrate" the words "In any proceeding instituted on a private complaint" shall be inserted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 36 stand part of the Bill."

The motion was adopted.

Clause 36 was added to the Bill.

Mr. Deputy-Speaker: I shall now put all the amendments seeking to introduce new clauses in this group of clauses.

The amendments were negatived.

Mr. Deputy-Speaker: The question is:

"That clause 32 stand part of the Bill."

The motion was adopted.

Clause 32 was added to the Bill.

Clauses 37 and 38 were added to the Bill.

Shri Sadhan Gupta: What about my amendment No. 521 seeking to introduce a new clause 89A? That is a consequential amendment, based on the amendment to section 207A and others.

Mr. Deputy-Speaker: This group consists only of clauses 26 to 38.

Shri Sadhan Gupta: The point is that this amendment is consequential on the amendments effected to this group. If you rule so, I shall put it in the other group. But it seems to belong logically to this group.

Mr. Deputy-Speaker: What is the attitude of the hon. Minister?

Dr. Katju: It may be considered, when clause 89 comes up.

Clauses 39 to 60

Mr. Deputy-Speaker: Now, we shall take up the next group of clauses, namely clauses 39 to 60. Hon. Members who want to move amendments may pass on the chits indicating the numbers of the amendments to the Table here.

Shri Sadhan Gupta: In this group of sections, we are concerned with a very important matter, namely the right of trial by jury. Our British masters had provided for two kinds of trials, one kind by jury and the other kind by assessors, in sessions cases. The real reason behind this distinction was that our British masters had a contempt for us natives, and they wanted to proclaim to the world that we were an inferior kind of humanity which was not fit to be entrusted with the work of jury trials except in a few places where the benign influence of Britain was felt; except where Government might prescribe that the trial will be by jury, in all other cases, the general rule prescribed was that the trial should be by assessors. Now, this provision implies a contempt for our intelligence, a contempt for our capacity, and a condemnation of our efficiency. One would expect that a Government which claims to be a national government would at least rid us of this slur, and not embody this in a Bill which it brings. But as it happens today, this slur is being perpetuated; the British proclamation is being corroborated by Dr. Katju's Bill. We have proposed numerous amendments, which aim at introducing jury trial as a general rule.

In this connection, I am quite aware of the objection that the jury have not proved satisfactory in many cases. But that is not the fault of the system; that is the fault of the authorities which choose the jury. I have seen in cases, particularly in the mofussil, that the jury are usually selected from the decadent landlord class which has become corrupt, which is open to all kinds of corruption, and that is why the jury have been proved to be unsatisfactory. What has to be done is to choose the right kind of people, and if we choose them, we have nothing to fear from jury trials. That is why, as I said, by our amendments we have sought to make it universal. But we

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must indicate our position regarding the provisions, as they stand, because we do not hope that our progressive amendments will be accepted by this Government. Without these amendments we must make it clear that an assessor trial is much better than a trial only by the Judge himself. We are absolutely certain that an assessor trial is not a good thing. It is not a substitute for jury trial: it is not an alternative to jury trial. But what we must make clear is where jury trial is not prescribed, then some amount of association of the common people even by way of an assessor trial is much more desirable than a trial only by the Judge himself. Of course, if the trial could be by a body of common men who could bring their understanding of the evidence to bear upon the case, it would be a highly desirable thing. After all, the judiciary, particularly our judiciary, are trained in a certain way which makes them appreciate the evidence in a particular manner. When any evidence comes before a Court of law, what the Court will be concerned with, by virtue of their training, is whether there is corroboration of the evidence, whether witnesses contradict each other. These are the supreme factors which often weigh with the Court in analysing, sifting and weighing evidence. But a common man who is unsophisticated in the sense that he is not trained in the technicalities of law, can bring to bear commonsense, he can bring to bear a human appreciation on the evidence given before him by watching the demeanour of witnesses. By falling back on his experience, he can say that even though there is no contradiction between witnesses, even though many witnesses corroborate each other, yet the way they gave evidence and the circumstances are such that in spite of an apparent unimpeachability in the evidence, the evidence is not to be relied on. This is a commonsense which only a layman can bring to bear because we, lawyers, have a training of weighing evidence by sheer numbers or by discrepancy or otherwise between witnesses. Now, that is a very important thing. We are all for it. But if that is not to be had, then we would rather that some amount of association of the common people should be retained and even if it be subject to the veto of the Judge, it is a better thing than no association of the common people at all. Let me make myself clear that we oppose assessor trials, but we have to accept that alternative as a necessary evil, at least a better evil than the evil of a trial without the association of the common pepole.

Now, Sir, I would appeal to the Home Minister not to echo in this Bill the insulting condemnation that our British oppressors made of our people, that they are unfit to be associated with the administration of justice. Wherever jurors have been properly chosen, wherever reliance was not being placed too much on the morally decadent class of landlords who are the trusted pepole of the authorities, the jury have done a good job and have contributed to a humane administration of jusice. Let us rely on our own people and choose the right kind of jurors and we shall have a system which will be beneficial for administration of justice in our country and of which we will be able to take legitimate pride.

Mr. Deputy-Speaker: The hon. Minister.

Shri Datar: No one wants to speak?

Mr. Deputy-Speaker: Why is he surprised? So far as the contentious matter is concerned, there has been sufficient discussion. Has the hon. Minister to say nothing more?

Shri Datar: Nothing more.

Shri Sadhan Gupta: What about the amendments?

Shri V. P. Nayar (Chirayinkil): This is unprecedented?

Mr. Deputy-Speaker: He may give the amendments.

Shri V. P. Nayar: He has an obvious difficulty in writing down numbers.

Mr. Deputy-Speaker: That is why I have been more than ordinarily indulgent towards him.

Shri V. P. Nayar: We will finish in half a minute and hand it over to you.

Shri Raghavachari: There is no quorum in the House.

Mr. Deputy-Speaker: I will call quorum.

Shri Sadhan Gupta: My amendments are Nos. 589 to 603. You may put them as you like.

Shri Raghavachari: There is no quorum.

Shri V. P. Nayar: You cannot put it to vote without quorum.

Mr. Deputy-Speaker: I will ring the bell.

Now there is quorum.

The following are the amendments: Amendments Nos. 589 to 603, Nos. 74 to 92 and Nos. 142 and 143.

Clause 39

Shri Sadhan Gupta: I beg to move:

In page 13, line 24, *for* "either by jury or by the Judge himself" *substitute* "by jury".

Clause 40

Shri Sadhan Gupta: I beg to move:

(1) In page 13, *omit* lines 27 to 29.

(2) In page 13, *omit* lines 30 to 43.

(3) In page 13, lines 36 and 37, *for* "two weeks" *substitute* "ten weeks".

(4) In page 13, lines 37 to 39, *omit* "or that the case would involve consideration of evidence of a highly technical nature, which renders it undesirable that it should be tried by a jury,".

Clause 41

Shri Sadhan Gupta: I beg to move.

(1) In page 13, line 50, *omit* "in a case triable by jury".

(2) In page 14, lines 1 and 2, *omit* "but in any other case, the Judge shall proceed to try the case himself."

(3) In page 14, line 3, *omit* "in cases triable by jury".

Clause 45

Shri Sadhan Gupta: I beg to move:

In page 15, lines 6 and 7, *omit* "or in any other case, when the Judge is ready to hear the case".

Clause 47

Shri Sadhan Gupta: I beg to move:

In page 15, *for* clause 47, *substitute*:

"47. *Amendment of section* 289, *Act* V *of* 1898.—In section 289 of the principal Act,—

(a) in sub-section (2), the words 'in a case tried with the aid of assessors' shall be omitted.

(b) in sub-section (3), the words 'in a case tried with the aid of assessors' shall be omitted."

Clause 55

Shri Sadhan Gupta: I beg to move:

In page 5, line 43, *after* "shall" *insert* "if he does not acquit such accused person."

Clause 56

Shri Sadhan Gupta: I beg to move:

In page 16, *for* clause 56, *substitute*:

"56. *Omission of sub-head H and section* 309 *in Act* V *of* 1898.—Sub-head H and section 309 of the principal Act shall be omitted."

Clause 57

Shri Sadhan Gupta: I beg to move:

In page 16, *for* lines 14 to 23, *substitute*:

'(a) the words "In the case of a trial by a jury or with the aid of assessors" shall be omitted;

(b) in sub-clause (ii) of clause (a) the words "or the opinions of

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the assessors have been recorded" shall be omitted; and

(c) clause (b) shall be omitted.'

Clause 59

Shri Sadhan Gupta: I beg to move:

In page 16, line 30, *for* "332 and 339A" *substitute* "and 332".

New clause 60A

Shri Sadhan Gupta: I beg to move:

In page 17, *after* line 9, *insert*:

'60A. *Amendment of section 339A, Act V of 1898.*—In sub-section (2) of section 339A of the principal Act, the words "or the Court with the aid of the assessors" shall be omitted."

Clause 39

Shri R. D. Misra: I beg to move:

In page 13, line 24,—

(i) *omit* "either by jury or"; and

(ii) *omit* "himself"

Clause 40

Shri R. D. Misra: I beg to move:

In page 13, *for* clause 40 *substitute*:

"40. *Omission of section 269, Act V of 1898.*—Section 269 of the principal Act shall be omitted."

Clause 41

Shri R. D. Misra: I beg to move:

(1) (i) In page 13, line 50 and in page 14, lines 1 and 2, *omit* "in a case triable by jury, proceed to choose jurors as hereinafter directed and to try the case, but in any other case, the Judge shall"; and

(ii) In page 14, line 2, *omit* "himself".

(2) In page 14, *omit* lines 3 to 5.

Clause 42

Shri R. D. Misra: I beg to move:

In page 14, for clause 42 *substitute*:

"42. *Omission of sections 274, 275, 276, 277, 278, 279, 280, 281, 282, and 283, Act V of 1898.*—Sections 274, 275, 276, 277, 278, 279, 280, 281, 282 and 283 of the principal Act shall be omitted."

Clause 45

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 45 *substitute*:

"45. *Substitution of new section for section 286 in Act V of 1898.*—For section 286 of the principal Act, the following section shall be substituted, namely:

'286. *Opening case for prosecution.*—(1) The prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged and stating shortly by what evidence he expects to prove the guilt of the accused.

(2) The prosecutor shall then examine his witnesses.' "

Clause 47

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 47 *substitute*:

'47. *Amendment of section 289, Act V of 1898.*—In sub-section (2) and sub-section (3) of section 289 of the principal Act, for the words "in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty" the words "record its reasons and acquit the accused" shall be substituted.'

Clause 49

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 49, *substitute*:

"49. *Omission of section 293, in Act V of 1898.*—Section 293 of the principal Act shall be omitted."

Clause 50

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 50, *substitute*:

"50. *Omission of section* 294 *in Act V of* 1898.—Section 294 of the principal Act shall be omitted."

Clause 51

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 51 *substitute*:

"51. *Omission of sections* 295 *and* 296 *in Act of* 1898.—Sections 295 and 296 of the principal Act shall be omitted."

Clause 52

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 52, *substitute*:

"52. *Omission of sections* 297, 298, 299 *and* 300 *in Act V of* 1898.—Sections 297, 298, 299 and 300 of the principal Act shall be omitted."

Clause 53

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 53, *substitute*:

"53. *Omission of section* 301 *in Act V of* 1898.—Section 301 of the principal Act shall be omitted."

Clause 54

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 54 *substitute*:

"54. *Omission of section* 302 *in Act V of* 1898.—Section 302 of the principal Act shall be omitted."

New Clause 54A

Shri R. D. Misra: I beg to move:

(1) In page 15, *after* line 37, *insert*:

"54A. *Omission of sections* 303 *and* 304, *in Act V of* 1898.—Sections 303 and 304 of the principal Act shall be omitted."

(2) In page 15, *after* line 37, *insert*:

"54A. *Omission of sections* 305 *and* 306 *in Act V of* 1898.—*Sections* 305 and 306 of the principal Act shall be omitted."

Clause 55

Shri R. D. Misra: I beg to move:

In page 15, *for* clause 55 *substitute*:

"55. *Omission of section* 307 *in* Act V of 1898.—Section 307 of the principal Act shall be omitted."

New Clause 55A

Shri R. D. Misra: I beg to move:

In page 15, *after* line 48, *insert*:

"55A. *Omission of section* 308 *in Act V of* 1898.—Section 308 of the principal Act shall be omitted."

Clause 56

Shri R. D. Misra: I beg to move:

In page 16, *for* clause 56 *substitute*:

"56. *Substitution of new section for section* 309, *Act V of* 1898.—For section 309 of the principal Act the following section shall be substituted, namely:

'309. *Judgment*.—When in any case under this chapter the Judge does not proceed under section 562 he shall if he finds the accused guilty pass sentence upon him according to law.'"

Clause 57

Shri R. D. Misra: I beg to move:

In page 16, *for* clause 57 *substitute*:

"57. *Substitution of new section for section* 310 *in Act V of* 1898.—For section 310 of the principal Act the following section shall be substituted, namely:

'310. *Procedure in case of previous conviction*.—In a case where a previous conviction is charged under the provisions of section 221, sub-section (7) and the accused does not admit that he has been previously convicted as alleged in the charge, the court may, after he has convicted the said accused under section 271 or 309 take evidence in respect of the alleged

[Shri R. D. Misra]

previous conviction and shall record a finding thereon and pass sentence upon him according to law.' "

Clause 58

Shri R. D. Misra: I beg to move:

In page 16, *for* clause 58, *substitute*:

"58. *Omission of sections* **312, 313, 314, 315, 316, 317, 318** ***and*** **319,** *in Act* V *of* 1898.—Sections **312, 313,** 314, 315, 316, 317, 318 and 319 of the principal Act shall be omitted."

Clause 59

Shri R. D. Misra: I beg to move:

In page 16, *for* clause 59, *substitute*:

"59. *Omission of sections* **320,** 321, 322, 323, 324, 325, 326, 327, **328, 329, 330, 331** ***and*** **332** ***in Act*** *V of* **1898.—Sections 320, 321, 322,** 323, 324, 325, 326, 327, 328, 329, 330, 331 and 332 of the principal Act shall be omitted."

Mr. Deputy-Speaker: These amendments are now placed before the House. Much has been said about the jury. Jury does not disappear. Assessors go.

Shri Raghavachari: We do not want to waste time. But it must be done in a proper manner.

Shri V. P. Nayar: I do not think quorum existed in the earlier stage.

Mr. Deputy-Speaker: If there is no quorum, we will adjourn the House.

Shri V. P. Nayar: The response to the Bill has been so very good!

Mr. Deputy-Speaker: Hon. Members are well aware that enough opportunity has been given to all Members. So far as the contentious protions are concerned, naturally hon. Members are tired in arguing on them and they did not want to devote themselves with respect to the other matters, except of course to fill in the quorum.

Now, I will put the amendments to the vote of the House. These relate to the group of clauses 39 to 60. I shall put all the amendments together unless any hon. Member wants a particular amendment to be put separately.

Shri R. D. Misra: Regarding amendment No. 74, I want to say something. Is the discussion closed?

Mr. Deputy-Speaker: The discussion is closed already. The hon. Member need not get up.

The question is:

In page 13, line 24—

(i) *omit* "either by jury or"; and

(ii) *omit* "himself".

The motion was negatived.

Mr. Deputy-Speaker: I shall now put all the other amendments to the vote of the House.

The amendments were negatived.

5 P.M.

Mr. Deputy-Speaker: The question is:

"That clauses 39 to 60, stand part of the Bill."

The motion was adopted.

Clauses 39 *to* 60 *were added to the Bill.*

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 2nd December, 1954.

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